

<p style="text-align: right;">274</p> <p>1 LOVE</p> <p>2 just quoted indicate to you that the bank</p> <p>3 understood that U.S. GAAP rules were being</p> <p>4 followed in this particular transaction</p> <p>5 and that SEC was monitoring the situation</p> <p>6 very closely?</p> <p>7 MS. DYER: Objection to form.</p> <p>8 A. Well, you're taking a sentence</p> <p>9 out of the whole paragraph, but it just</p> <p>10 says that the public nature, because it is</p> <p>11 a public company, U.S. GAAP rules must be</p> <p>12 followed very stringently, okay, and that</p> <p>13 the SEC will monitor this very closely,</p> <p>14 that you report to the SEC, the SEC can</p> <p>15 send you letters requesting additional</p> <p>16 information on your filings with them,</p> <p>17 that that goes in total with everything</p> <p>18 else that they've done, knowing that</p> <p>19 Lernout and Hauspie are related parties to</p> <p>20 L&H and they're supporting the funding of</p> <p>21 the money that's being used as this</p> <p>22 fraudulent fee that they're picking up as</p> <p>23 inappropriate and fraudulent revenue on</p> <p>24 L&H.</p> <p>25 So what I'm -- what I'm saying</p>	<p style="text-align: right;">276</p> <p>1 LOVE</p> <p>2 recognize revenue from a transaction with</p> <p>3 a customer that is financed by a bank</p> <p>4 unless the company stays completely out</p> <p>5 and has absolutely nothing to do with the</p> <p>6 financing?</p> <p>7 MS. DYER: Objection to form.</p> <p>8 Do you need to hear the question</p> <p>9 back?</p> <p>10 THE WITNESS: Yes, you know.</p> <p>11 A. If you look at, we're talking</p> <p>12 about an R&D arrangement, and if you look</p> <p>13 at 8,C I believe it is, of the replacement</p> <p>14 and development standard, you'll see that</p> <p>15 it says precisely that, significantly</p> <p>16 involved, and they were significantly</p> <p>17 involved.</p> <p>18 Well, I'm sorry, I gave you 8C,</p> <p>19 and 8C is the current text reference to</p> <p>20 it. Where you'll see it here is paragraph</p> <p>21 .106, item c, "A significant related party</p> <p>22 relationship between the enterprise and</p> <p>23 the parties funding the research and</p> <p>24 development exists at the time the</p> <p>25 enterprise enters into the agreement."</p>
<p style="text-align: right;">275</p> <p>1 LOVE</p> <p>2 is it says we know that you have to follow</p> <p>3 this very stringently, and then if you</p> <p>4 gotta go on after that, and I know you</p> <p>5 asked me just for that one, but if you go</p> <p>6 on, this is appropriate, it is appropriate</p> <p>7 for this, it is appropriate that L&H stay</p> <p>8 out of the loan transaction completely.</p> <p>9 Hey, that's an understanding of</p> <p>10 what's going on here. That shows an</p> <p>11 understanding of the fact that you can't</p> <p>12 have them in there so that it will be</p> <p>13 posted, that's recorded, the bracket is</p> <p>14 what we put in, you know, means recorded,</p> <p>15 the funds needed for this project as</p> <p>16 revenue as well. It can post the funds</p> <p>17 needed for this product as revenue as</p> <p>18 well.</p> <p>19 That's clearly an understanding</p> <p>20 in saying that you gotta keep them out of</p> <p>21 here or we got a problem, they are picking</p> <p>22 it up as revenue and they want to pick it</p> <p>23 up as revenue.</p> <p>24 Q. And it is your understanding of</p> <p>25 U.S. GAAP, sir, that a company cannot</p>	<p style="text-align: right;">277</p> <p>1 LOVE</p> <p>2 Q. In your mind, sir, is that the</p> <p>3 same as saying that the company has to</p> <p>4 stay completely out of the loan</p> <p>5 transaction?</p> <p>6 MS. DYER: Objection to form.</p> <p>7 A. That shows an understanding of</p> <p>8 that aspect of it, that particular aspect,</p> <p>9 that that is an issue and a problem.</p> <p>10 It doesn't say the company</p> <p>11 either, it says the enterprise -- the</p> <p>12 significant related party relationship</p> <p>13 between the enterprise, between L&H, and</p> <p>14 the parties funding the research and</p> <p>15 development, exists at the time the</p> <p>16 principal enters into the arrangement.</p> <p>17 Q. So when you read this language</p> <p>18 that you quoted from page 49, this</p> <p>19 document that Mr. Van Helleputte created,</p> <p>20 you believe that he's explaining this</p> <p>21 rule in the research and development</p> <p>22 arrangements current text from the FASB</p> <p>23 that you just read, 106c?</p> <p>24 MS. DYER: Objection to form.</p> <p>25 Q. You believe that's what he is</p>

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<p style="text-align: right;">278</p> <p>1 LOVE</p> <p>2 talking about here?</p> <p>3 MS. DYER: Same objection.</p> <p>4 A. Look, you say -- you say is he</p> <p>5 explaining it. No, he's saying that in</p> <p>6 order to -- he's not saying in order to</p> <p>7 comply, that this actual statement really</p> <p>8 refers to the compliance with that with</p> <p>9 what is 8C in the actual -- the original</p> <p>10 standard or paragraph .105c under the</p> <p>11 current tax.</p> <p>12 Q. When you refer to "the original</p> <p>13 standard," you're talking about FAS 68?</p> <p>14 A. Right.</p> <p>15 Q. So you're talking about Section</p> <p>16 8c of FAS 68?</p> <p>17 A. Right.</p> <p>18 Q. So let me make sure that the</p> <p>19 record is clear.</p> <p>20 Are you saying that Mr. Van</p> <p>21 Helleputte is -- is describing in this</p> <p>22 text that you've underlined in the second</p> <p>23 paragraph here on page 49, paragraph 8c of</p> <p>24 FAS 68?</p> <p>25 MS. DYER: Objection to form.</p>	<p style="text-align: right;">280</p> <p>1 LOVE</p> <p>2 and here they are the parties involved in</p> <p>3 the funding because it's clear in the loan</p> <p>4 agreements or in the, I'm sorry, in the</p> <p>5 loan files, that they're really not</p> <p>6 looking at the value of DC or DC or any</p> <p>7 of them, because it goes for all of them,</p> <p>8 they're looking at the guarantees or the</p> <p>9 CDS as the repayment or an acquisition as</p> <p>10 a repayment.</p> <p>11 Normally a banker would look at</p> <p>12 character of the borrower, the cash</p> <p>13 flow, particularly from operations, the</p> <p>14 collateral and the capital.</p> <p>15 When you look at these loan</p> <p>16 credit files and the loan -- what they're</p> <p>17 doing is they're looking at the payment</p> <p>18 -- the repayment, they're looking to the</p> <p>19 guarantee as the strength of the</p> <p>20 financing, because in many of them nothing</p> <p>21 is there, they're just shell companies; so</p> <p>22 they're looking to this significant</p> <p>23 related party, and clearly they are</p> <p>24 significant related parties and they're</p> <p>25 involved in the funding.</p>
<p style="text-align: right;">279</p> <p>1 LOVE</p> <p>2 A. No, no, no. What I'm saying is,</p> <p>3 what he is saying is that it's appropriate</p> <p>4 that they stay out of it completely so</p> <p>5 they can post it or record it as revenue</p> <p>6 is in order to comply -- that's what you</p> <p>7 have to do if you're gonna comply with</p> <p>8 subparagraph C that we've been talking</p> <p>9 about.</p> <p>10 Q. Does subparagraph C say anything</p> <p>11 about staying out of a loan transaction</p> <p>12 completely?</p> <p>13 A. A significant related party</p> <p>14 relationship between the enterprise --</p> <p>15 and the enterprise is L&H -- a significant</p> <p>16 related party relationship and the</p> <p>17 majority, or not majority, the major</p> <p>18 shareholders and control managers of L&H</p> <p>19 are related parties, there's gotta be that</p> <p>20 significant -- and the party -- the</p> <p>21 significant related party has -- cannot</p> <p>22 be involved in the funding, the R&D</p> <p>23 development -- if it exists at the time,</p> <p>24 at the time that they get into it, that</p> <p>25 they are involved in the funding, okay,</p>	<p style="text-align: right;">281</p> <p>1 LOVE</p> <p>2 This is what that's saying. For</p> <p>3 this it is appropriate that L&H stay out</p> <p>4 of the loan transaction completely so that</p> <p>5 it can be recorded or posted of the funds</p> <p>6 that for this project as revenue as well,</p> <p>7 that they wanna record it as revenue and</p> <p>8 they need to be out.</p> <p>9 Q. Sir, is it your understanding of</p> <p>10 U.S. GAAP or FAS 68, or FAS 57 for that</p> <p>11 matter, that involvement in financing for</p> <p>12 a customer creates a related party</p> <p>13 relationship?</p> <p>14 MS. DYER: Objection to form.</p> <p>15 A. That's not FAS 68. Read the</p> <p>16 title of FAS 68. It's R&D developments.</p> <p>17 Okay?</p> <p>18 Now, if we want the other we</p> <p>19 have to go to another FAS, and that's the</p> <p>20 one that relates to -- you can see it on</p> <p>21 the recording of revenue on a right of</p> <p>22 return exists, and that will say roughly</p> <p>23 the same thing.</p> <p>24 Q. Sir, regardless of the specific</p> <p>25 provision, my question is is it your</p>

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<p style="text-align: right;">282</p> <p>1 LOVE</p> <p>2 understanding of U.S. GAAP, as an expert</p> <p>3 on U.S. GAAP, that involvement in the</p> <p>4 financing for a customer creates a related</p> <p>5 party relationship with that customer?</p> <p>6 MS. DYER: Objection to form,</p> <p>7 and I'm not sure that you were</p> <p>8 finished with your last answer,</p> <p>9 Mr. Love. If you need to elaborate,</p> <p>10 please do.</p> <p>11 Q. Sir, do you need to consult a</p> <p>12 document to answer that question?</p> <p>13 A. No, no, I just wanted to have</p> <p>14 the document available, and if you have an</p> <p>15 objection to my consulting these documents</p> <p>16 just say so and we'll go on from there.</p> <p>17 Okay?</p> <p>18 Would you please just answer the</p> <p>19 question again -- ask the question again.</p> <p>20 You're talking about a customer</p> <p>21 relationship, you're talking about a</p> <p>22 customer relationship where the company is</p> <p>23 financing that customer.</p> <p>24 There's more to consider than</p> <p>25 just -- you can -- you can finance a</p>	<p style="text-align: right;">284</p> <p>1 LOVE</p> <p>2 Where you're dealing with larger</p> <p>3 customers and you're financing them and</p> <p>4 they don't have the economic substance or</p> <p>5 the ability to repay, then you cannot book</p> <p>6 the income at this point in time, you only</p> <p>7 book it generally when you receive the</p> <p>8 cash from the customer.</p> <p>9 Q. Are you finished?</p> <p>10 A. Yes.</p> <p>11 Q. My question, sir, was is it</p> <p>12 your understanding of U.S. GAAP that any</p> <p>13 involvement that a company has in</p> <p>14 acquiring financing for its customer</p> <p>15 creates a related party relationship with</p> <p>16 that customer.</p> <p>17 MS. DYER: Objection to form.</p> <p>18 A. Finding -- not guaranteeing,</p> <p>19 okay, because we're taking out of context</p> <p>20 here.</p> <p>21 If you're telling me that that</p> <p>22 seller of that product guarantees to the</p> <p>23 funding company the repayment, then I</p> <p>24 think you're back in the track that I was</p> <p>25 discussing when I answered it before.</p>
<p style="text-align: right;">283</p> <p>1 LOVE</p> <p>2 customer, then you will pick up a</p> <p>3 receivable, if it's a large dollar value</p> <p>4 sale you would look at that customer for</p> <p>5 credibility and can the customer pay back</p> <p>6 the amount.</p> <p>7 If it shows -- if it appears</p> <p>8 that the customer can't pay it back then</p> <p>9 you can't record that income. So you can</p> <p>10 finance them but if a customer doesn't</p> <p>11 have the wherewithal to pay it back you</p> <p>12 can't record the income at that point in</p> <p>13 time, the time of the transaction.</p> <p>14 Q. Sir --</p> <p>15 A. It's a little more complicated</p> <p>16 than you're making it out to be. Just the</p> <p>17 blanket statement, an answer to that</p> <p>18 statement is going to be misleading.</p> <p>19 People finance their customers.</p> <p>20 You set up a receivable from that</p> <p>21 customer. If you anticipate losses you</p> <p>22 set up a reserve for losses, that reduces</p> <p>23 the revenue you would receive on those</p> <p>24 transactions in the aggregate for smaller</p> <p>25 customers.</p>	<p style="text-align: right;">285</p> <p>1 LOVE</p> <p>2 Okay?</p> <p>3 Q. Well, sir, we'll get to</p> <p>4 different versions of this hypothetical,</p> <p>5 but please just answer the question I had.</p> <p>6 This document indicates, this</p> <p>7 quote that you pointed to, indicates that</p> <p>8 L&H can't be involved in any way in the</p> <p>9 financing for its customer; and so my</p> <p>10 question to you, sir, you said that that's</p> <p>11 a reflection of U.S. GAAP in some way.</p> <p>12 My question to you, sir, is is</p> <p>13 it your understanding of U.S. GAAP that if</p> <p>14 a company selling something has some</p> <p>15 involvement or any involvement in</p> <p>16 procuring financing for its customer, that</p> <p>17 that creates a related party relationship</p> <p>18 between the company and its customer?</p> <p>19 MS. DYER: I'm going to object</p> <p>20 to the form, and I don't know that</p> <p>21 Mr. Love was actually finished</p> <p>22 answering the prior question before</p> <p>23 you cut him off.</p> <p>24 A. I don't even think I said that.</p> <p>25 If you look at this. Let's read</p>

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<p style="text-align: right;">286</p> <p>1 LOVE</p> <p>2 it again. Maybe you don't understand it</p> <p>3 and I can try to help you understand it --</p> <p>4 Q. Sir, reading the document is not</p> <p>5 going to help me understand. I would like</p> <p>6 to get your understanding.</p> <p>7 MS. DYER: Hold on, hold on.</p> <p>8 Let Mr. Love --</p> <p>9 A. Let me finish my question [sic].</p> <p>10 I know I stepped on you and I'm sorry I</p> <p>11 did, I apologize for doing it before, it's</p> <p>12 wrong. So let me finish mine.</p> <p>13 We were talking about, on page</p> <p>14 37, was it?</p> <p>15 MS. DYER: You are referring to</p> <p>16 your report?</p> <p>17 MR. BUTLER: We were on page 49,</p> <p>18 sir.</p> <p>19 THE WITNESS: 49, okay.</p> <p>20 A. The sentence that says, "For</p> <p>21 this is appropriate that L&H stay out of</p> <p>22 the loan transaction completely so that it</p> <p>23 can be posted, record, the funds needed</p> <p>24 for this project as revenue as well."</p> <p>25 Okay?</p>	<p style="text-align: right;">288</p> <p>1 LOVE</p> <p>2 they need some money and they've got the</p> <p>3 wherewithal and they show that they have</p> <p>4 the wherewithal to pay it back; this is</p> <p>5 the actual funding is being supported by</p> <p>6 these individuals who are significant</p> <p>7 related parties to the enterprise, which</p> <p>8 is L&H.</p> <p>9 I'm then saying that if you take</p> <p>10 that, and he's saying here, L&H has got to</p> <p>11 stay out of it. I'm just saying that that</p> <p>12 statement is to comply with that</p> <p>13 particular provision of the standards, and</p> <p>14 it shows a knowledge. Because if he</p> <p>15 didn't know that, why would you care? Or</p> <p>16 if someone didn't tell you that, that they</p> <p>17 had to stay out, why would you care? Why</p> <p>18 would you hide? Why would you go through</p> <p>19 all the trouble of hiding the guarantee if</p> <p>20 it had no effect whatsoever? No impact?</p> <p>21 People will act rationally at times, even</p> <p>22 people that are connected in a fraud, why</p> <p>23 go through that problem if it has no</p> <p>24 impact?</p> <p>25 Q. Sir, I'm just trying to</p>
<p style="text-align: right;">287</p> <p>1 LOVE</p> <p>2 And I'm saying to you that is</p> <p>3 to comply with .106c that says a</p> <p>4 significant related party relationship</p> <p>5 between the enterprise and the parties</p> <p>6 funding the research and development</p> <p>7 exists at the time the enterprise enters</p> <p>8 into the agreement is an example of a</p> <p>9 presumption that the enterprise will repay</p> <p>10 the other parties, consequently you cannot</p> <p>11 record the fee as income. Okay?</p> <p>12 Now, you're taking that and</p> <p>13 you're saying that the company obtains</p> <p>14 financing, and that's not what this is</p> <p>15 saying. That the funding, through a loan,</p> <p>16 through the creditworthiness of a related</p> <p>17 party, the creditworthiness of Messrs.</p> <p>18 Lernout, Hauspie, Willaert and Bastiens,</p> <p>19 is funding the loan that's used to pay the</p> <p>20 R&D fee that's going to Lernout & Hauspie.</p> <p>21 I'm saying that then,</p> <p>22 understanding that, that's not just</p> <p>23 arranging, that's taking them to the bank</p> <p>24 and saying here, you know, here, Mr.</p> <p>25 Banker, here's this is a customer of mine,</p>	<p style="text-align: right;">289</p> <p>1 LOVE</p> <p>2 understand the connection that you're</p> <p>3 drawing between this language "stay out of</p> <p>4 the loan transaction completely" and the</p> <p>5 language in FAS 68, paragraph 8c, that</p> <p>6 refers to a related party relationship.</p> <p>7 And my question, sir, is if a</p> <p>8 company does not stay out of a loan</p> <p>9 transaction completely, is it your</p> <p>10 understanding of U.S. GAAP that that</p> <p>11 creates a related party relationship?</p> <p>12 MS. DYER: I'm going to object</p> <p>13 to form. Asked and answered as well.</p> <p>14 A. That doesn't say it creates a</p> <p>15 related party, no, that doesn't, because</p> <p>16 what this is saying here -- and I'm not</p> <p>17 saying it's a related party transaction</p> <p>18 -- you know, it says here, you gotta</p> <p>19 understand what a related party is in</p> <p>20 order to read this particular document</p> <p>21 that went to Mr. Faict, and they have the</p> <p>22 related party standards that they've given</p> <p>23 them, and it says -- it doesn't say what</p> <p>24 you're making it out to be, it says</p> <p>25 clearly and distinctly it's not -- it says</p>

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<p style="text-align: right;">290</p> <p>1 LOVE</p> <p>2 a significant related party relationship</p> <p>3 between the enterprise -- and the</p> <p>4 enterprise is L&H -- and the parties</p> <p>5 funding the research and development</p> <p>6 exists at the time of the enterprise into</p> <p>7 the arrangement.</p> <p>8 That's why they tried to keep</p> <p>9 out -- that's why they kept out the names</p> <p>10 of Lernout, Hauspie, Willaert and Bastiens</p> <p>11 in the side agreements, because if they</p> <p>12 were the source of the funding, and their</p> <p>13 net worth was the source of the funding,</p> <p>14 that would preclude you from putting in</p> <p>15 the R&D.</p> <p>16 It's part of the history of why</p> <p>17 this R&D standard came into effect,</p> <p>18 because years ago people were abusing that</p> <p>19 and they were funding the R&D themselves,</p> <p>20 and in that way keeping it off their books</p> <p>21 as an expense.</p> <p>22 Q. Sir, maybe I'll ask the question</p> <p>23 this way: How do you determine whether a</p> <p>24 related party relationship exists under</p> <p>25 FAS 68, 8c between the enterprise and the</p>	<p style="text-align: right;">292</p> <p>1 LOVE</p> <p>2 of the enterprise -- that's what we got</p> <p>3 here, L&H -- and who have the authority to</p> <p>4 establish policies and make decisions by</p> <p>5 which those objectives are to be pursued,</p> <p>6 these are related parties, management</p> <p>7 normally includes members of the Board of</p> <p>8 Directors, the Chief Executive Officer,</p> <p>9 Chief Operating Officer, vice presidents</p> <p>10 in charge of principal business functions</p> <p>11 such as sales, administration or finance,</p> <p>12 and other persons who perform similar</p> <p>13 policy-making functions.</p> <p>14 Wild leap between management</p> <p>15 of LHAP -- L&HSP and Mr. Willaert,</p> <p>16 Mr. Bastiens is the president, these are</p> <p>17 the founders of the company, Mr.</p> <p>18 Hauspie -- I missed one.</p> <p>19 These are -- these are</p> <p>20 management. These are related parties.</p> <p>21 These two documents, I think, are clear on</p> <p>22 that, okay?</p> <p>23 I don't know if Mr. Faict spoke</p> <p>24 English or not or was able to read this;</p> <p>25 but certainly that sentence shows that</p>
<p style="text-align: right;">291</p> <p>1 LOVE</p> <p>2 parties funding the research and</p> <p>3 development?</p> <p>4 A. Okay. If you read the</p> <p>5 document -- well, it's not in here, they</p> <p>6 don't have note three, it wasn't given</p> <p>7 him, because note three at the end is a</p> <p>8 note three, when you take these things</p> <p>9 sometimes from service, this looks like it</p> <p>10 was download from a service or something,</p> <p>11 that would have been a note 3, and note 3</p> <p>12 refers to the related party provision.</p> <p>13 But it's clear if you go so then</p> <p>14 you got to know what a related party is,</p> <p>15 so you look at it and say significant</p> <p>16 related party, related party, what's a</p> <p>17 related party? Well, I've got this other</p> <p>18 document here that was sent to me that</p> <p>19 says related parties. Related parties</p> <p>20 include transactions between a parent</p> <p>21 company, subsidiaries, these are examples,</p> <p>22 a parent company -- let me get to the</p> <p>23 actual wording of what a related party is.</p> <p>24 Management, persons who are</p> <p>25 responsible for achieving the objectives</p>	<p style="text-align: right;">293</p> <p>1 LOVE</p> <p>2 there's an understanding of that</p> <p>3 requirement, that if that occurred that</p> <p>4 would preclude the recording of revenue.</p> <p>5 Q. Sir, you were just reading from</p> <p>6 DB B6799 and you quoted the portion on</p> <p>7 management, but isn't the definition of</p> <p>8 related parties just below that?</p> <p>9 A. Members of the -- management,</p> <p>10 principal owners of the enterprise. It's</p> <p>11 management, members of the immediate</p> <p>12 families of the principal owners, you bet</p> <p>13 it's right underneath there and it says</p> <p>14 it.</p> <p>15 Q. So, sir, just to have a clear</p> <p>16 record, there is a section on page DBB6799</p> <p>17 that's headed "Related Parties," is it</p> <p>18 your understanding, sir, as an expert on</p> <p>19 U.S. GAAP, that this is the definition of</p> <p>20 related parties under FAS 57?</p> <p>21 MS. DYER: Objection to form.</p> <p>22 A. This is the definition of a</p> <p>23 related party that's in FAS 57, that's</p> <p>24 correct, and that's management, principal</p> <p>25 owners of the enterprise, its management,</p>

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<p style="text-align: right;">294</p> <p>1 LOVE</p> <p>2 its management, the enterprise's</p> <p>3 management, and what I'm saying to you,</p> <p>4 that that is -- management is the</p> <p>5 significant related party relationship</p> <p>6 with the enterprise and they are also</p> <p>7 the parties funding the research and</p> <p>8 development through lending their value to</p> <p>9 the loan from Artesia, and that's why your</p> <p>10 client kept their names out of the loan</p> <p>11 agreement and that's why it said here "for</p> <p>12 this it is appropriate that L&H stay out</p> <p>13 of the loan transaction completely so that</p> <p>14 it can post, record, the funds needed for</p> <p>15 this project as revenue as well."</p> <p>16 Q. Sir, I just want to ask you</p> <p>17 about this document because I'm trying to</p> <p>18 understand these provisions of U.S. GAAP,</p> <p>19 and I understand that you are an expert on</p> <p>20 them.</p> <p>21 Is it your understanding when</p> <p>22 you look at FAS 68 and see the term</p> <p>23 "related party," that that's referring</p> <p>24 back to this definition that's in FAS 57?</p> <p>25 MS. DYER: Objection to form.</p>	<p style="text-align: right;">296</p> <p>1 LOVE</p> <p>2 significant related party relationship and</p> <p>3 a related party relationship under FAS 57?</p> <p>4 MS. DYER: Objection to form.</p> <p>5 A. The difference? The management</p> <p>6 of the company, the people that run the</p> <p>7 company have a very significant related</p> <p>8 party relationship with the enterprise.</p> <p>9 It's just not a casual relationship of</p> <p>10 sorts.</p> <p>11 So that that is -- that is</p> <p>12 probably one of the most significant</p> <p>13 related party relationships that exists</p> <p>14 between the management and ownership of</p> <p>15 the company and the enterprise.</p> <p>16 Q. All I'm trying to understand,</p> <p>17 sir, is FAS 57 refers to related parties</p> <p>18 and FAS 68 refers to significant related</p> <p>19 parties. What is your understanding of</p> <p>20 the difference between related parties in</p> <p>21 FAS 57 and significant related parties in</p> <p>22 FAS 68?</p> <p>23 MS. DYER: Objection to form.</p> <p>24 A. The related parties in FAS 57,</p> <p>25 or R36 in the current text, is a</p>
<p style="text-align: right;">295</p> <p>1 LOVE</p> <p>2 A. Excuse me.</p> <p>3 MR. BUTLER: Could you read my</p> <p>4 question again.</p> <p>5 A. The question is sort of like</p> <p>6 you're argue with me? You know, I don't</p> <p>7 understand it.</p> <p>8 I've said it a dozen times here</p> <p>9 to you. I showed you where it comes from,</p> <p>10 each one of these standards. I showed you</p> <p>11 how it ties into what was said and you're</p> <p>12 still going at it again and again. Either</p> <p>13 you're very dense or I'm not explaining</p> <p>14 this well.</p> <p>15 Q. I think it's the latter, sir, so</p> <p>16 I would like you to answer my question.</p> <p>17 When FAS 68, 8c refers to</p> <p>18 related parties, is it your understanding,</p> <p>19 as an expert on U.S. GAAP, that that's</p> <p>20 referring back to the definition of</p> <p>21 related parties in FAS 57?</p> <p>22 A. Yes.</p> <p>23 Q. But in FAS 68 it says</p> <p>24 "significant related party relationship."</p> <p>25 What is the difference between a</p>	<p style="text-align: right;">297</p> <p>1 LOVE</p> <p>2 definition of all related parties.</p> <p>3 A significant related party</p> <p>4 relationship is just what it says, it's</p> <p>5 not a casual relationship, it is a</p> <p>6 significant relationship, and it's clear</p> <p>7 to any practicing accountant that the</p> <p>8 management of a company and major</p> <p>9 shareholders have a significant related</p> <p>10 party relationship.</p> <p>11 Q. What criteria do you use as a</p> <p>12 practicing attorney [sic] to determine</p> <p>13 whether a related party trans --</p> <p>14 relationship, sorry, is a casual one or a</p> <p>15 significant one?</p> <p>16 MS. DYER: Objection to form.</p> <p>17 THE WITNESS: Do you wanna read</p> <p>18 that back?</p> <p>19 MR. BUTLER: I can read the</p> <p>20 question again if you'd like.</p> <p>21 Q. What criteria do you use, sir,</p> <p>22 as a practicing accountant to determine</p> <p>23 whether a related party relationship is a</p> <p>24 casual one or a significant one?</p> <p>25 A. What do I do? Okay. Related</p>

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<p style="text-align: right;">298</p> <p>1 LOVE</p> <p>2 party -- it's tough to keep both of these</p> <p>3 things open at the same time. Okay.</p> <p>4 One, C says related party and</p> <p>5 then before that it is significant related</p> <p>6 party. What would I do to know? How much</p> <p>7 control does that person have over the</p> <p>8 enterprise? If that person is a human</p> <p>9 resources vice president they may be</p> <p>10 related but they have very little control.</p> <p>11 So the amount of control that</p> <p>12 these four individuals have over Lernout &</p> <p>13 Hauspie is what makes them significant</p> <p>14 related parties.</p> <p>15 Q. So your understanding is it's a</p> <p>16 matter of the degree of control that one</p> <p>17 related party exerts over another; is that</p> <p>18 fair to say?</p> <p>19 MS. DYER: Objection to form.</p> <p>20 A. And that's just one of the</p> <p>21 things that I said.</p> <p>22 Q. Well, I'm trying to get your</p> <p>23 complete understanding of this topic.</p> <p>24 MS. DYER: Let him finish,</p> <p>25 Mr. Butler.</p>	<p style="text-align: right;">300</p> <p>1 LOVE</p> <p>2 significant control; and I've never heard</p> <p>3 from another CPA who ever told me that the</p> <p>4 management and principal shareholders of a</p> <p>5 company were not significant related</p> <p>6 parties.</p> <p>7 Q. FAS 57 defines related parties.</p> <p>8 Are you aware of any U.S. GAAP that</p> <p>9 defines the term significant related</p> <p>10 parties?</p> <p>11 A. When you go -- when you go into</p> <p>12 the literature that goes beyond, you know,</p> <p>13 FAS 57 or what we have here -- because</p> <p>14 let's stick with what we have in front of</p> <p>15 us, which is R33, the current text,</p> <p>16 related parties -- when you go into the</p> <p>17 other literature I don't have anything</p> <p>18 that I can point to specifically, but</p> <p>19 I've read analyses of related party</p> <p>20 transactions and the significant influence</p> <p>21 of the related party, and that they were</p> <p>22 significant related parties, I'm just</p> <p>23 telling you that manager of a company in</p> <p>24 this particular situation is significant,</p> <p>25 a significant related party to the</p>
<p style="text-align: right;">299</p> <p>1 LOVE</p> <p>2 A. You can have other significant</p> <p>3 relationships and related parties that may</p> <p>4 be shares-based between companies and</p> <p>5 subsidiaries and they are clearly related</p> <p>6 parties. You have common ownership, the</p> <p>7 owners of one company are the owners of</p> <p>8 the other, and that would be significant</p> <p>9 related parties because they control both</p> <p>10 entities.</p> <p>11 But here we're talking about a</p> <p>12 related party relationship with the</p> <p>13 company itself, and if you look at what</p> <p>14 the managers do, they can influence</p> <p>15 everything, they can make the decisions</p> <p>16 for that company, that is a significant</p> <p>17 capability, and when they're defined as</p> <p>18 related parties, if they're management</p> <p>19 and they have that control, that is</p> <p>20 significant control; and it's more than</p> <p>21 control, nothing is done in a vacuum in</p> <p>22 real life -- maybe in a classroom it is</p> <p>23 and in a case study -- but in real life</p> <p>24 you look at every aspect of what's going</p> <p>25 on to determine whether or not they're</p>	<p style="text-align: right;">301</p> <p>1 LOVE</p> <p>2 company, because they're right there at</p> <p>3 company and they can -- if they've got</p> <p>4 control they could do what they want with</p> <p>5 the company, and boy, if that isn't a</p> <p>6 significant related party relationship</p> <p>7 nothing is.</p> <p>8 Q. Is it possible, sir, that a lay</p> <p>9 man who doesn't have your extensive</p> <p>10 experience and accounting background would</p> <p>11 not know what the meaning of a significant</p> <p>12 related party relationship is from reading</p> <p>13 this document, Love Exhibit 6?</p> <p>14 MS. DYER: Objection to form.</p> <p>15 A. You're talking about just</p> <p>16 reading the document. I'm saying there's</p> <p>17 more than the document involved here.</p> <p>18 And my whole question is in this</p> <p>19 particular atmosphere why are they hiding</p> <p>20 the relationship in a side agreement</p> <p>21 between these people and the lending?</p> <p>22 Why are they hiding it if it</p> <p>23 means nothing? If they don't understand</p> <p>24 that they are significant, that they are</p> <p>25 important, why are they hiding it?</p>

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<p style="text-align: right;">302</p> <p>1 LOVE</p> <p>2 Q. Sir, my --</p> <p>3 A. I can't understand that as a</p> <p>4 fraud examiner.</p> <p>5 Q. Sir, my question is, is it</p> <p>6 possible that a lay man, from reading this</p> <p>7 document which you say put the bank on</p> <p>8 notice of the relevant accounting rules,</p> <p>9 would not know the meaning of the term</p> <p>10 significant related party relationship by</p> <p>11 reading this Love Exhibit 6?</p> <p>12 MS. DYER: Objection to form.</p> <p>13 A. I didn't say that this was all</p> <p>14 the bank had. I didn't say that at all,</p> <p>15 that this document is all that they had.</p> <p>16 We went through a lot of things</p> <p>17 that the bank had, including the letter</p> <p>18 from the attorneys. We haven't gone</p> <p>19 through the KPMG letters that went to them</p> <p>20 directly and the analysis there of what</p> <p>21 could be and not be done.</p> <p>22 So it's not simply from reading</p> <p>23 this. If it's simply from reading this</p> <p>24 then they couldn't come to this conclusion</p> <p>25 unless they can interpret this.</p>	<p style="text-align: right;">304</p> <p>1 LOVE</p> <p>2 just --</p> <p>3 MS. DYER: How much time is on</p> <p>4 the tape?</p> <p>5 THE VIDEOGRAPHER: 56 minutes on</p> <p>6 this tape.</p> <p>7 MS. DYER: That's what we have</p> <p>8 left?</p> <p>9 THE VIDEOGRAPHER: No, no, we</p> <p>10 have 26 minutes left on this tape.</p> <p>11 A. I probably should have included</p> <p>12 in my other answer Mr. Janssens'</p> <p>13 testimony, it's on the top of that page,</p> <p>14 but let's leave that for now and go to the</p> <p>15 one on page 50 that you were pointing out.</p> <p>16 Q. Well, sir, let me ask you if you</p> <p>17 think that Mr. Janssens' testimony at the</p> <p>18 top of the page, do you think that is an</p> <p>19 indication that Mr. Faict understood the</p> <p>20 accounting principles concerning related</p> <p>21 party transactions and research and</p> <p>22 development arrangements.</p> <p>23 A. Let me read the question and</p> <p>24 answer. The question is, that was given</p> <p>25 to Mr. Janssens under oath, Is it true</p>
<p style="text-align: right;">303</p> <p>1 LOVE</p> <p>2 They cannot come to this</p> <p>3 conclusion here unless they know what this</p> <p>4 means over in 68, over in R55, which is</p> <p>5 the current text for FAS 68, because this</p> <p>6 sentence is directly responsive to 106</p> <p>7 point C.</p> <p>8 Q. Okay, sir, we got sidetracked a</p> <p>9 little bit talking about some of these</p> <p>10 principles, but we were going through the</p> <p>11 evidence that you had cited as indications</p> <p>12 that Mr. Faict understood these accounting</p> <p>13 principles that we discussed a little bit.</p> <p>14 And the next document you cited</p> <p>15 or quoted was on page 50. It looks like</p> <p>16 it's an internal bank memorandum is how</p> <p>17 you described it.</p> <p>18 Can you tell me, what is it</p> <p>19 about this document that leads you to</p> <p>20 believe that Mr. Faict understood these</p> <p>21 principles of U.S. GAAP concerning related</p> <p>22 party transactions and research and</p> <p>23 development arrangements?</p> <p>24 A. Just looking at something else,</p> <p>25 I'm sorry, I apologize, because I think I</p>	<p style="text-align: right;">305</p> <p>1 LOVE</p> <p>2 that the bank was informed that Lernout</p> <p>3 and Hauspie could not be liable directly</p> <p>4 or indirectly or by means of a guarantee</p> <p>5 with respect to the repayment of the</p> <p>6 financing of the BTG loan? Yes, that is</p> <p>7 correct." Okay?</p> <p>8 That, again, is to comply with</p> <p>9 the standards. They were informed, that's</p> <p>10 the bank, it's Mr. Janssens, and I said</p> <p>11 this before, they are lending officers,</p> <p>12 they're a group of lending officers, they</p> <p>13 all together, Mr. Faict is with them,</p> <p>14 not direct, same as the one that we get to</p> <p>15 next, it's not direct.</p> <p>16 Q. Sir, I'm asking about Mr. Faict.</p> <p>17 Is there anything in this testimony from</p> <p>18 Mr. Janssens that leads you to believe</p> <p>19 that Mr. Faict was informed of the</p> <p>20 accounting principles that apply to</p> <p>21 related party transactions and research</p> <p>22 and development arrangements.</p> <p>23 A. Well, first of all, he was</p> <p>24 informed of them because that the exhibit</p> <p>25 that you just pointed to, because this</p>

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<p style="text-align: right;">306</p> <p>1 LOVE</p> <p>2 went to Mr. Faict and it says Love 6.</p> <p>3 So to begin with he did have</p> <p>4 them. He was informed, okay? So that</p> <p>5 part of the question is answered yes, he</p> <p>6 was informed.</p> <p>7 Q. Sir, my question is about this</p> <p>8 language that you just quoted. We have</p> <p>9 already talked about this other document,</p> <p>10 you don't have to go back to it again and</p> <p>11 again.</p> <p>12 A. That's not the question you</p> <p>13 asked.</p> <p>14 Q. My question is very specific.</p> <p>15 Did this language, this</p> <p>16 testimony that you just quoted from Mr.</p> <p>17 Janssens, did that in any way indicate to</p> <p>18 you that Mr. Faict understood the</p> <p>19 accounting principles for related party</p> <p>20 transactions and research and development</p> <p>21 arrangements?</p> <p>22 A. And, as I said before, I -- once</p> <p>23 we ended where Mr. Faict was directly on</p> <p>24 the memos, that everything else that came</p> <p>25 after that, this was information that was</p>	<p style="text-align: right;">308</p> <p>1 LOVE</p> <p>2 Q. Do you know what Mr. Faict's</p> <p>3 position was in 1996 at the bank?</p> <p>4 A. As we sit here, no, but he was</p> <p>5 one of the major lending officers in this</p> <p>6 thing, I believe.</p> <p>7 Q. Why do you say that he was an</p> <p>8 officer of the bank?</p> <p>9 A. He was a lending officer.</p> <p>10 Q. What do you mean when you use</p> <p>11 the term "officer"?</p> <p>12 A. Well, in a bank it probably</p> <p>13 means a lot of people and people that are</p> <p>14 dealing with the credits are generally</p> <p>15 called lending officers. It's not an</p> <p>16 executive officer of the bank.</p> <p>17 Q. That's what I wanted to clarify.</p> <p>18 You're talking about a lending officer,</p> <p>19 not an executive officer?</p> <p>20 A. Yes.</p> <p>21 Q. If you look at the next excerpt</p> <p>22 that you cite on page 50, could you just</p> <p>23 tell me, is this another excerpt that goes</p> <p>24 to the general knowledge of the bank or is</p> <p>25 this one specific to Mr. Faict?</p>
<p style="text-align: right;">307</p> <p>1 LOVE</p> <p>2 available to all of the banking officers</p> <p>3 but not -- there is no, right now as I sit</p> <p>4 here, direct connection to Mr. Faict, but</p> <p>5 on many of these things he may have been</p> <p>6 named.</p> <p>7 This is a group of people, these</p> <p>8 are lending people at a bank, and they</p> <p>9 usually talk to each other, but I have no</p> <p>10 connection to that.</p> <p>11 I'm saying that -- so we can</p> <p>12 stop, if you want Mr. Faict we can stop</p> <p>13 already because these are items that I</p> <p>14 qualified in my answer to you to begin</p> <p>15 with that were the bank's understanding of</p> <p>16 it and that Mr. Faict was an officer of</p> <p>17 the bank.</p> <p>18 Q. So is it correct, this question</p> <p>19 and answer that you just read, is in that</p> <p>20 category that it just relates to the</p> <p>21 bank's general understanding and not</p> <p>22 Mr. Faict's specifically; correct?</p> <p>23 A. Not his personal understanding</p> <p>24 but the bank's understanding, and he's an</p> <p>25 officer of the bank.</p>	<p style="text-align: right;">309</p> <p>1 LOVE</p> <p>2 A. I'd have to get the actual</p> <p>3 document itself, and I don't have that</p> <p>4 here with me to see who is involved in</p> <p>5 this internal memo, Mr. Faict was on it or</p> <p>6 not.</p> <p>7 Q. Okay. If you go to the next</p> <p>8 language that you cite, I think that's on</p> <p>9 page 52 where you cite a memo to the</p> <p>10 Management Committee, and I think in your</p> <p>11 testimony you even cited the Bates number</p> <p>12 associated with that document in Footnote</p> <p>13 113, DBB38286.</p> <p>14 My question, sir, is is that the</p> <p>15 same document that we talked about before</p> <p>16 on page 49?</p> <p>17 A. Page 49, that's the same</p> <p>18 document.</p> <p>19 Q. I mean, I'm a little confused</p> <p>20 then because on page 52 you say that the</p> <p>21 memo came from Mr. Faict and on page 48</p> <p>22 you indicate that the memo came from</p> <p>23 Mr. Van Helleputte.</p> <p>24 Do you know which is correct?</p> <p>25 MS. DYER: I'm going to object</p>

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<p style="text-align: right;">310</p> <p>1 LOVE</p> <p>2 to form, to the extent that it assumes</p> <p>3 it's either or.</p> <p>4 Q. That's a fair question.</p> <p>5 Do you know, did both of them</p> <p>6 write this, did both of -- in one place</p> <p>7 you say it is Mr. Van Helleputte, in</p> <p>8 another place you say it's Mr. Faict; how</p> <p>9 do you explain that?</p> <p>10 A. I'd have to see the document to</p> <p>11 understand that and be sure that we got</p> <p>12 the numbers right on both of those and</p> <p>13 that there isn't an error in the number.</p> <p>14 But this one relates to a memo</p> <p>15 to the Management Committee, but there</p> <p>16 could also be attached to that -- there</p> <p>17 could be both people are on it, it could</p> <p>18 be, um, I'd have to look at the document</p> <p>19 itself to clear it up and I'd like to</p> <p>20 clear it up at some point and I will clear</p> <p>21 it up but right now --</p> <p>22 Q. Okay.</p> <p>23 A. -- but right now, let's assume,</p> <p>24 I'm assuming that, because we checked all</p> <p>25 these documents and I do have them set</p>	<p style="text-align: right;">312</p> <p>1 LOVE</p> <p>2 That whole thing is really</p> <p>3 paraphrasing all of the issues that must</p> <p>4 be addressed in determining whether you</p> <p>5 can record the income as revenue.</p> <p>6 Q. Well, what is it paraphrasing?</p> <p>7 What portion of the GAAP that's set forth</p> <p>8 in Love Exhibit 6 is it paraphrasing?</p> <p>9 MS. DYER: Objection to form.</p> <p>10 A. It all goes to the related party</p> <p>11 aspect of it and the fact that a related</p> <p>12 party is someone, um, that you would be</p> <p>13 independent of, a commercial transaction</p> <p>14 came about between independent and</p> <p>15 unassociated parties.</p> <p>16 That means it can't be a related</p> <p>17 party under normal economic circumstances.</p> <p>18 But that part that it's merely -- it must</p> <p>19 be viewed merely as a commercial</p> <p>20 transaction that came about between</p> <p>21 independent and unassociated parties,</p> <p>22 that's the related party aspect of it,</p> <p>23 independent and unrelated or unassociated,</p> <p>24 if they're a related party they're not</p> <p>25 independent necessarily in the transaction</p>
<p style="text-align: right;">311</p> <p>1 LOVE</p> <p>2 aside, that either there's an error or</p> <p>3 that this comes from both people. There</p> <p>4 is an error, you know, in the reference to</p> <p>5 what the document is.</p> <p>6 Q. Okay, sir, regardless of who</p> <p>7 it's from, on page 52, what is it about</p> <p>8 the quoted portion that leads you to</p> <p>9 believe that Mr. Faict understood the</p> <p>10 accounting principles concerning related</p> <p>11 party transactions and research and</p> <p>12 development arrangements?</p> <p>13 A. Okay. Let me say another thing</p> <p>14 too, that I just want to also be sure that</p> <p>15 it's Mr. Faict, I assume that it is, but,</p> <p>16 you know, I'm going to go back and check</p> <p>17 that.</p> <p>18 But why, if you look at that,</p> <p>19 transaction must be viewed merely as a</p> <p>20 commercial transaction that came about</p> <p>21 between independent parties and</p> <p>22 unassociated parties under normal economic</p> <p>23 conditions such that this transaction</p> <p>24 certainly shall not be classified as a</p> <p>25 loan under U.S. GAAP. Okay?</p>	<p style="text-align: right;">313</p> <p>1 LOVE</p> <p>2 and they're not unassociated parties.</p> <p>3 Q. Can you tell me where that --</p> <p>4 that document is included in the current</p> <p>5 text from FASB concerning related party</p> <p>6 transactions?</p> <p>7 MS. DYER: Objection to form.</p> <p>8 A. Examples of transactions between</p> <p>9 related parties include transactions</p> <p>10 between an enterprise and its principal</p> <p>11 owners, management or members of their</p> <p>12 family -- immediate families and</p> <p>13 affiliates (indicating); and 103,</p> <p>14 transactions involving related parties</p> <p>15 cannot be presumed to be carried out on an</p> <p>16 arm's length basis.</p> <p>17 Well, this is merely a</p> <p>18 commercial transaction between independent</p> <p>19 and unassociated parties under normal</p> <p>20 economic circumstances, that is a -- that</p> <p>21 is not something -- that would be an arm's</p> <p>22 length transaction. That basically is it.</p> <p>23 I mean, that is disclosing a</p> <p>24 separate, independent organization and not</p> <p>25 a related party organization, and if</p>

<p style="text-align: right;">314</p> <p>1 LOVE</p> <p>2 you're saying that this is involving L&H</p> <p>3 and it must be viewed merely as a</p> <p>4 commercial transaction, what you're</p> <p>5 saying, these are the rules we have to</p> <p>6 circumvent, related party rules, because</p> <p>7 we have to have unassociated and</p> <p>8 independent parties in a commercial</p> <p>9 transaction where both parties in essence</p> <p>10 have their own objectives.</p> <p>11 Q. Sir, my question is is there</p> <p>12 anything about independent and</p> <p>13 unassociated parties in normal economic</p> <p>14 circumstances in the FASB current text</p> <p>15 associated with related parties that</p> <p>16 you've already indicated is authoritative</p> <p>17 on the subject?</p> <p>18 MS. DYER: Objection to form.</p> <p>19 Objection asked and answered.</p> <p>20 A. I just stated that.</p> <p>21 Q. The only thing you pointed me to</p> <p>22 was the statement, quote, "Transactions</p> <p>23 involving related parties cannot be</p> <p>24 presumed to be carried out on an arm's</p> <p>25 length basis"; is that what your answer</p>	<p style="text-align: right;">316</p> <p>1 LOVE</p> <p>2 MR. BUTLER: I'll rephrase the</p> <p>3 question.</p> <p>4 Q. This text that you pointed to</p> <p>5 refers to transactions being reclassified</p> <p>6 as a loan under U.S. GAAP; do you see that</p> <p>7 language?</p> <p>8 A. Yes.</p> <p>9 Q. Is there anything in the FASB</p> <p>10 current text associated with related party</p> <p>11 transactions that indicates that if</p> <p>12 there's a related party transaction</p> <p>13 revenue has to be reclassified as a loan</p> <p>14 under U.S. GAAP?</p> <p>15 MS. DYER: Objection to form.</p> <p>16 A. That part of the text is not in</p> <p>17 the related party thing, but we go to the</p> <p>18 8c again and if you look at the two</p> <p>19 paragraphs that precede the 8C and they</p> <p>20 say what it's doing. You cannot take it</p> <p>21 as revenue, if you receive the money it</p> <p>22 has to be set up then as a payable or as a</p> <p>23 loan, okay?</p> <p>24 And that would be on L&H's</p> <p>25 books, it is a loan, regardless of if it's</p>
<p style="text-align: right;">315</p> <p>1 LOVE</p> <p>2 is?</p> <p>3 A. That's part of my answer, you</p> <p>4 didn't listen to all of my answer.</p> <p>5 My answer also went back to the</p> <p>6 examples of transactions between related</p> <p>7 parties and transactions between an</p> <p>8 enterprise, its principal owners,</p> <p>9 management or members of their immediate</p> <p>10 families as well.</p> <p>11 Q. This excerpt indicates that --</p> <p>12 that the consequence they're seeking to</p> <p>13 avoid is that the transaction could be</p> <p>14 reclassified as a loan under U.S. GAAP; do</p> <p>15 you see that?</p> <p>16 MS. DYER: Objection to form.</p> <p>17 THE WITNESS: Can I have the</p> <p>18 question back again. There's a part</p> <p>19 that I don't understand.</p> <p>20 [The requested portion of the</p> <p>21 record was read.]</p> <p>22 MS. DYER: Same objection.</p> <p>23 A. I'm sorry, what I don't</p> <p>24 understand is the first part of it, who is</p> <p>25 trying to avoid.</p>	<p style="text-align: right;">317</p> <p>1 LOVE</p> <p>2 cloaked in secrecy or all the provisions</p> <p>3 of it are cloaked in secrecy. It's always</p> <p>4 a loan on the bank's books, so you can</p> <p>5 only be talking about L&H's books.</p> <p>6 Q. So is it possible that in this</p> <p>7 excerpt, whoever drafted it is confusing</p> <p>8 the requirements of FAS 57 and FAS 68?</p> <p>9 MS. DYER: Objection to form.</p> <p>10 Calls for speculation.</p> <p>11 A. No, not at all.</p> <p>12 Q. Well, you initially testified,</p> <p>13 sir, that this was explaining something</p> <p>14 that had to do with related party</p> <p>15 transactions under FAS 57; and now you've</p> <p>16 just said that the last part of it is</p> <p>17 really talking about Section 8c of FAS 68.</p> <p>18 Doesn't that indicate that there may be</p> <p>19 some confusion about these provisions?</p> <p>20 MS. DYER: I'm going to object</p> <p>21 to form and I'm going to object as</p> <p>22 mischaracterizing his testimony, asked</p> <p>23 and answered.</p> <p>24 A. That is mischaracterizing my</p> <p>25 testimony, I didn't say that. You said</p>

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<p style="text-align: right;">318</p> <p>1 LOVE</p> <p>2 what's the connection between this and it</p> <p>3 says we talked about the understanding of</p> <p>4 related party and this is saying that in</p> <p>5 order to do this the way L&H wants to do</p> <p>6 it, it can't be viewed merely as a -- it</p> <p>7 must be able to be viewed merely as a</p> <p>8 commercial transaction that came about</p> <p>9 between independent and unassociated</p> <p>10 parties, that means non-related parties.</p> <p>11 It's not a quantum leap. So you</p> <p>12 to know what a related party is to be</p> <p>13 able to make sure that it's viewed merely</p> <p>14 as a commercial transaction that came</p> <p>15 about between independent and unassociated</p> <p>16 parties. Can't have it. It can't be</p> <p>17 viewed as being between related parties.</p> <p>18 Q. Well, you seem to be saying that</p> <p>19 a non-related party is the same as an</p> <p>20 unassociated party; am I hearing that</p> <p>21 correctly?</p> <p>22 MS. DYER: Objection to form.</p> <p>23 A. I'm saying that a related party</p> <p>24 is not an unassociated -- an independent</p> <p>25 unassociated party, because there -- it is</p>	<p style="text-align: right;">320</p> <p>1 LOVE</p> <p>2 portion of this quote relates to Section</p> <p>3 8c of FAS 68. Is there anything in FAS 68</p> <p>4 about independent and unassociated parties</p> <p>5 under normal economic circumstances?</p> <p>6 MS. DYER: Objection to form.</p> <p>7 A. Let me read it again.</p> <p>8 A significant related party</p> <p>9 relationship between the enterprise and</p> <p>10 the parties funding the research and</p> <p>11 development exists at the time the</p> <p>12 enterprise enters into the arrangement.</p> <p>13 This is one of the conditions that would</p> <p>14 not allow you to record the income that</p> <p>15 you receive on the fees.</p> <p>16 A significant related party</p> <p>17 relationship, as a commercial transaction</p> <p>18 that came about between independent and</p> <p>19 unassociated parties (indicating).</p> <p>20 Q. Are you finished?</p> <p>21 A. Yes.</p> <p>22 Q. Let me ask a slightly different</p> <p>23 question. This says that transaction, in</p> <p>24 order to recognize revenue -- I think it's</p> <p>25 talking about revenue here -- transaction</p>
<p style="text-align: right;">319</p> <p>1 LOVE</p> <p>2 associated with the enterprise or with the</p> <p>3 company.</p> <p>4 Q. Let me ask my question again.</p> <p>5 Is it your understanding of U.S.</p> <p>6 GAAP that an unassociated -- that to be</p> <p>7 an unrelated party you have to have no</p> <p>8 association at all with the other party?</p> <p>9 MS. DYER: Objection to form.</p> <p>10 Objection, asked and answered.</p> <p>11 A. But that's an absurd question</p> <p>12 the way you ask that question. I mean,</p> <p>13 you could have connection with different</p> <p>14 companies, your firm, my firm have</p> <p>15 connections with different companies.</p> <p>16 We're not related parties to those</p> <p>17 companies, okay? But independent and</p> <p>18 unassociated would make it a related</p> <p>19 party.</p> <p>20 Q. So I'm still trying to</p> <p>21 understand -- and I'm struggling, to be</p> <p>22 honest -- to understand the connection</p> <p>23 between this excerpt and the GAAP</p> <p>24 provisions that are in Love Exhibit 6.</p> <p>25 You indicate that the last</p>	<p style="text-align: right;">321</p> <p>1 LOVE</p> <p>2 must be able to be viewed merely as a</p> <p>3 commercial transaction that came about</p> <p>4 between independent and unassociated</p> <p>5 parties under normal economic</p> <p>6 circumstances.</p> <p>7 Is it your understanding, sir,</p> <p>8 that under U.S. GAAP and the GAAP that</p> <p>9 applies to research and development</p> <p>10 arrangements that as long as the</p> <p>11 transaction can be viewed as a commercial</p> <p>12 transaction that came about between</p> <p>13 independent and unassociated parties under</p> <p>14 normal circumstances, that it's okay to</p> <p>15 recognize revenue?</p> <p>16 MS. DYER: Objection to form.</p> <p>17 A. It's again a question that can't</p> <p>18 be answered with a yes or no.</p> <p>19 There are four, really, pieces</p> <p>20 to the recognition of revenue in most</p> <p>21 instances. One of the things, it could be</p> <p>22 a commercial transaction, it could be</p> <p>23 between independent parties but you may</p> <p>24 not be able to recognize that revenue, you</p> <p>25 cannot recognize revenue on software</p>

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<p style="text-align: right;">322</p> <p>1 LOVE</p> <p>2 contracts unless you can demonstrate</p> <p>3 that you determined at the time of the</p> <p>4 transaction that the amount was</p> <p>5 collectable.</p> <p>6 There are a lot of other issues</p> <p>7 involved in the recognition of income.</p> <p>8 Q. Well, sir, I understand that</p> <p>9 there may be some other issues involved,</p> <p>10 but focusing on FAS 68, is this excerpt</p> <p>11 that I just read an accurate statement of</p> <p>12 FAS 68?</p> <p>13 MS. DYER: Objection to form.</p> <p>14 A. I never said it was an accurate</p> <p>15 statement of FAS. It doesn't say that</p> <p>16 word-for-word in FAS 68.</p> <p>17 What I said is that relates to</p> <p>18 meeting the compliance in this particular</p> <p>19 instance with that portion of FAS 68.</p> <p>20 So an understanding of FAS 68,</p> <p>21 or someone just telling you, look, you're</p> <p>22 gonna account for this revenue, like a</p> <p>23 letter from KPMG or from the attorneys for</p> <p>24 the company, they can't be a relationship</p> <p>25 between these companies [sic]. If there</p>	<p style="text-align: right;">324</p> <p>1 LOVE</p> <p>2 companies are with non-related parties,</p> <p>3 okay?</p> <p>4 There are other factors that</p> <p>5 deal with revenue recognition. The</p> <p>6 ability to collect the amount of revenue</p> <p>7 is a factor that's taken into</p> <p>8 consideration.</p> <p>9 In project accounting it would</p> <p>10 be the ability to complete the project</p> <p>11 within the estimated time and money -- or</p> <p>12 money more than the time -- to determine</p> <p>13 whether you have a loss on the contract or</p> <p>14 a gain on the contract.</p> <p>15 You can take revenue in in</p> <p>16 different ways. That's what he told me.</p> <p>17 Q. Are you finished with your</p> <p>18 answer, sir?</p> <p>19 A. We have two, yes.</p> <p>20 Q. The factors that you just</p> <p>21 described are those things that are</p> <p>22 outside of FAS 68?</p> <p>23 MS. DYER: Objection to form.</p> <p>24 A. They are in the literature.</p> <p>25 Q. But are they outside of FAS 68?</p>
<p style="text-align: right;">323</p> <p>1 LOVE</p> <p>2 is this relationship you're not gonna be</p> <p>3 able to record it as income. And they</p> <p>4 even told them that it's gotta be reviewed</p> <p>5 as a commercial transaction between</p> <p>6 independent and unassociated parties, and</p> <p>7 they're going now to a lot of the revenue</p> <p>8 recognition issues besides the related</p> <p>9 party issues.</p> <p>10 Q. Sir, my question is under FAS</p> <p>11 68, if it's true that the transaction can</p> <p>12 be viewed merely as a commercial</p> <p>13 transaction that came about between</p> <p>14 independent and unassociated parties under</p> <p>15 normal circumstances, is it okay to</p> <p>16 recognize revenue?</p> <p>17 MS. DYER: Objection to form,</p> <p>18 and objection asked and answered.</p> <p>19 A. And I answered it a number of</p> <p>20 times. There are more -- there's more to</p> <p>21 it than that. In everyday life you deal</p> <p>22 with companies that are not related</p> <p>23 parties as well.</p> <p>24 Most of your transactions in</p> <p>25 most commercial companies and public</p>	<p style="text-align: right;">325</p> <p>1 LOVE</p> <p>2 A. To a certain extent none of it</p> <p>3 is outside of FAS 68 because they all have</p> <p>4 to be in place in order to apply FAS 68.</p> <p>5 Q. Well, sir, I'm asking you only</p> <p>6 about FAS 68; do you understand that?</p> <p>7 MS. DYER: I'm going to object</p> <p>8 to form.</p> <p>9 A. Yes.</p> <p>10 Q. My question is, limiting the</p> <p>11 question to FAS 68 -- I understand there</p> <p>12 are other revenue recognition factors --</p> <p>13 but limiting your answer to FAS 68, is it</p> <p>14 true that under that provision as long as</p> <p>15 you have revenue that is viewed merely as</p> <p>16 a commercial transaction that came about</p> <p>17 between independent and unassociated</p> <p>18 parties under normal economic</p> <p>19 circumstances that it's okay under FAS 68</p> <p>20 to recognize the revenue?</p> <p>21 MS. DYER: Objection to form.</p> <p>22 A. I just don't understand the</p> <p>23 question, doesn't make any sense.</p> <p>24 Q. What don't you understand about</p> <p>25 the question?</p>

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<p style="text-align: right;">326</p> <p>1 LOVE</p> <p>2 A. I don't understand what you are</p> <p>3 trying to get at. You seem hell bent to</p> <p>4 get at something. And all I'm saying is</p> <p>5 that when you look at FAS 68 and you look</p> <p>6 at the significant related party</p> <p>7 relationship between the parties,</p> <p>8 independent and unassociated means, in</p> <p>9 this particular case what they have in</p> <p>10 context here, this is in context right</p> <p>11 here, with these companies involved you</p> <p>12 have to have an independent party.</p> <p>13 This is what they're saying</p> <p>14 and this is saying here that there's a</p> <p>15 significant related party relationship.</p> <p>16 So to get rid of that they have to create</p> <p>17 the appearance of independence. It's got</p> <p>18 to be viewed as independence.</p> <p>19 MR. BUTLER: Let's take a break</p> <p>20 to change the tape.</p> <p>21 THE VIDEOGRAPHER: We're off the</p> <p>22 record. The time is 5:39.</p> <p>23 (Whereupon, a brief recess was</p> <p>24 taken).</p> <p>25 THE VIDEOGRAPHER: Okay. We are</p>	<p style="text-align: right;">328</p> <p>1 LOVE</p> <p>2 as" is the facade that has to be -- that</p> <p>3 they're talking about, that it has to</p> <p>4 be -- appear to be a transaction between</p> <p>5 independent parties.</p> <p>6 I wouldn't say viewed at, I</p> <p>7 would say for really to be GAAP that it</p> <p>8 must be a commercial transaction between</p> <p>9 independent and unassociated parties.</p> <p>10 When you're talking about the</p> <p>11 financing of the project and the Brussels</p> <p>12 Translation Group, because it's also</p> <p>13 qualified by that, and we're talking about</p> <p>14 the financing of this R&D.</p> <p>15 Q. So if people within the bank</p> <p>16 believed that it only had to be viewed as</p> <p>17 an independent commercial transaction</p> <p>18 they'd be misinformed about U.S. GAAP; is</p> <p>19 that correct?</p> <p>20 MS. DYER: Objection to form.</p> <p>21 A. I don't think that's the</p> <p>22 connotation of what's being said. What is</p> <p>23 being said is that if this is going to be</p> <p>24 income and taken as income it's got to be</p> <p>25 viewed as so that then what you see from</p>
<p style="text-align: right;">327</p> <p>1 LOVE</p> <p>2 back on the record. The time is 5:44.</p> <p>3 This is the beginning of tape six.</p> <p>4 CONTINUED EXAMINATION BY MR. BUTLER:</p> <p>5 Q. Sir, I'm sure I wasn't asking</p> <p>6 this question very elegantly before so let</p> <p>7 me just direct your attention back to page</p> <p>8 52 and the text that you cited as an</p> <p>9 indication that Mr. Faict understood the</p> <p>10 accounting principles relating to -- to</p> <p>11 these -- well, the relevant accounting</p> <p>12 principles.</p> <p>13 My question really, sir, is do</p> <p>14 you think that this excerpt here is an</p> <p>15 accurate reflection of U.S. GAAP under FAS</p> <p>16 68?</p> <p>17 MS. DYER: Objection to form.</p> <p>18 A. Well, there is one problem with</p> <p>19 it, it just can't be viewed merely, it has</p> <p>20 to be a commercial transaction that came</p> <p>21 about between independent unassociated</p> <p>22 parties under normal circumstances.</p> <p>23 Q. So in your opinion this is not</p> <p>24 quite right?</p> <p>25 A. The "viewed as" -- the "viewed</p>	<p style="text-align: right;">329</p> <p>1 LOVE</p> <p>2 the bank records, they prepare these side</p> <p>3 agreements so that it be can be viewed as</p> <p>4 when it's not really a independent -- a</p> <p>5 transaction between an independent and an</p> <p>6 unassociated party.</p> <p>7 So, you know, I don't know how</p> <p>8 you read the "viewed merely as," but that</p> <p>9 seems to relate to how it's gotta be</p> <p>10 presented.</p> <p>11 Doesn't talk about what it is,</p> <p>12 but you have to understand what GAAP says</p> <p>13 in order to determine how to present it to</p> <p>14 get the result you want, even though it's</p> <p>15 probably the wrong result under GAAP, or</p> <p>16 is the wrong result under GAAP.</p> <p>17 Q. Sir, I'm not asking about the</p> <p>18 connotations of this particular phrase.</p> <p>19 My question is if the bank believed that</p> <p>20 the transaction only had to be viewed as a</p> <p>21 commercial transaction between independent</p> <p>22 and unassociated parties, and didn't</p> <p>23 actually have to be a commercial</p> <p>24 transaction between independent and</p> <p>25 unassociated parties, would you agree that</p>

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<p style="text-align: right;">330</p> <p>1 LOVE</p> <p>2 they were misinformed?</p> <p>3 MS. DYER: Objection to form.</p> <p>4 Objection. Asked and answered.</p> <p>5 A. I mean, again, it's a silly</p> <p>6 question.</p> <p>7 Q. Sir, you don't need to tell me</p> <p>8 my question is silly. Please, just answer</p> <p>9 my question.</p> <p>10 MS. DYER: Well, hold on, he's</p> <p>11 answered the question. What he said</p> <p>12 previously is they'd have to</p> <p>13 understand what the requirements were</p> <p>14 in order to understand that it merely</p> <p>15 had to be viewed as, that they had to</p> <p>16 present it as such, that they had to</p> <p>17 present it that it was supposed to be</p> <p>18 actually; but if you want him to</p> <p>19 answer it again he'll answer it again,</p> <p>20 and that's what he started to do, but</p> <p>21 don't cut him off, Jeff.</p> <p>22 MR. BUTLER: He wasn't answering</p> <p>23 my question. I believe he said it was</p> <p>24 silly, but let me ask the question</p> <p>25 again.</p>	<p style="text-align: right;">332</p> <p>1 LOVE</p> <p>2 had to be viewed as a commercial</p> <p>3 transaction between independent and</p> <p>4 unassociated parties as opposed to</p> <p>5 actually being such a transaction, is</p> <p>6 it your understanding of U.S. GAAP that</p> <p>7 those people would be misinformed?</p> <p>8 MS. DYER: Objection to form.</p> <p>9 Objection, asked and answered.</p> <p>10 A. I just don't understand, because</p> <p>11 and that is also a legal question as to</p> <p>12 what they believed, is that are they</p> <p>13 misinformed. That's not what the</p> <p>14 documents show.</p> <p>15 Q. I'm not asking about what the</p> <p>16 documents show, sir. I'm asking a simple</p> <p>17 question about U.S. GAAP, and I think</p> <p>18 you've testified that you are an expert on</p> <p>19 U.S. GAAP.</p> <p>20 So my question is under U.S.</p> <p>21 GAAP, if somebody, if I believed that it</p> <p>22 was only necessary to be viewed as a</p> <p>23 commercial transaction that came about</p> <p>24 between independent and unassociated</p> <p>25 parties under normal economic</p>
<p style="text-align: right;">331</p> <p>1 LOVE</p> <p>2 MS. DYER: He previously</p> <p>3 answered the question before you asked</p> <p>4 it a second time.</p> <p>5 CONTINUED EXAMINATION BY MR. BUTLER:</p> <p>6 Q. My question is if people within</p> <p>7 the bank believed that it was only</p> <p>8 necessary to be viewed as a commercial</p> <p>9 transaction that came about between</p> <p>10 independent and unassociated parties as</p> <p>11 opposed to actually being a commercial</p> <p>12 transaction that came about between</p> <p>13 independent and unassociated parties,</p> <p>14 would you agree that those people within</p> <p>15 the bank were misinformed about U.S. GAAP?</p> <p>16 MS. DYER: Objection to form.</p> <p>17 Objection, asked and answered.</p> <p>18 A. That is not -- your speculation</p> <p>19 about what the people believed at the bank</p> <p>20 is not supported by the documentary</p> <p>21 evidence in the loan files.</p> <p>22 Q. I'm not asking whether it was</p> <p>23 supported, sir. My question is -- please</p> <p>24 listen to it carefully -- if people in the</p> <p>25 bank believed that the transaction only</p>	<p style="text-align: right;">333</p> <p>1 LOVE</p> <p>2 circumstances, instead of actually being</p> <p>3 such a commercial transaction, would I be</p> <p>4 misinformed about U.S. GAAP?</p> <p>5 MS. DYER: Objection to form.</p> <p>6 Calls for speculation. He answered it</p> <p>7 already but --</p> <p>8 A. I think it is speculative. I --</p> <p>9 I don't know what they thought, I just</p> <p>10 know what's in the records. I can't --</p> <p>11 Q. Sir, I'm not asking about what</p> <p>12 they thought.</p> <p>13 MS. DYER: Hold on, let Mr. Love</p> <p>14 finish.</p> <p>15 A. I can't testify to anything</p> <p>16 that's not in the record or to a person's</p> <p>17 state of mind, then there's a legal</p> <p>18 conclusion as to whether or not if a</p> <p>19 person believes something different than</p> <p>20 what they've been told and what they have</p> <p>21 in the record, does that mean that they</p> <p>22 can't be held responsible for it? I just</p> <p>23 don't know.</p> <p>24 Q. Sir --</p> <p>25 A. I've seen nothing that says to</p>

84 (Pages 330 to 333)

<p style="text-align: right;">334</p> <p>1 LOVE</p> <p>2 me that they believe -- anyone at the bank</p> <p>3 in all the documents I read -- they</p> <p>4 believe that it just had to be viewed that</p> <p>5 way, we could just make it look like it's</p> <p>6 GAAP, even though we know it's not GAAP,</p> <p>7 if we could make it look like it's GAAP</p> <p>8 that's okay. That's fraud. Everyone</p> <p>9 understands that as fraud. You're making</p> <p>10 it out to look like something that it's</p> <p>11 not, that's fraud.</p> <p>12 Q. Sir, my question is a purely</p> <p>13 hypothetical question based on your</p> <p>14 understanding of U.S. GAAP.</p> <p>15 MS. DYER: He's told you he</p> <p>16 can't answer it because if you are</p> <p>17 told what the requirements are and you</p> <p>18 believe something different, that's a</p> <p>19 legal question as to whether that's</p> <p>20 fraud.</p> <p>21 If I say I believe something but</p> <p>22 I was told the right answer, that's a</p> <p>23 legal question.</p> <p>24 MR. BUTLER: I'm not asking him</p> <p>25 about what's fraud, believe me,</p>	<p style="text-align: right;">336</p> <p>1 LOVE</p> <p>2 Unless you have something else</p> <p>3 to add to your answer, Mr. Love, I'm</p> <p>4 going to instruct the witness not to</p> <p>5 answer.</p> <p>6 MR. BUTLER: Karen, please don't</p> <p>7 coach the witness.</p> <p>8 MS. DYER: Your question is</p> <p>9 inappropriate because no one knows</p> <p>10 what's meant by "believe."</p> <p>11 MR. BUTLER: Could you read my</p> <p>12 question again, please.</p> <p>13 MS. DYER: Your question has</p> <p>14 been read a hundred times.</p> <p>15 How would you know if you're</p> <p>16 misinformed? If someone informed you</p> <p>17 of X, Y and Z and you say well, I</p> <p>18 believe A, B, C, how would you know?</p> <p>19 MR. BUTLER: Karen, I think</p> <p>20 we've heard your objection and Mr.</p> <p>21 Love has heard how you think he should</p> <p>22 answer the question.</p> <p>23 MS. DYER: Well, my objection</p> <p>24 came far after he answered the</p> <p>25 question. You can have the court</p>
<p style="text-align: right;">335</p> <p>1 LOVE</p> <p>2 believe me, I'm not asking about this</p> <p>3 witness about what's fraud, he's</p> <p>4 volunteering all of that.</p> <p>5 MS. DYER: He made his answer.</p> <p>6 MR. BUTLER: Listen, you've made</p> <p>7 your objection and I'm going to ask</p> <p>8 this question until I get a straight</p> <p>9 answer.</p> <p>10 CONTINUED EXAMINATION BY MR. BUTLER:</p> <p>11 Q. Sir, as an expert on U.S. GAAP,</p> <p>12 if I believed that under FAS 68 the</p> <p>13 transaction only had to be viewed as a</p> <p>14 commercial transaction that came about</p> <p>15 between independent and unassociated</p> <p>16 parties under normal economic</p> <p>17 circumstances as opposed to actually being</p> <p>18 such a transaction, would I be misinformed</p> <p>19 about FAS 68?</p> <p>20 MS. DYER: Was your belief good</p> <p>21 faith or not, and were you informed of</p> <p>22 something different and then decided</p> <p>23 that you were going to testify that</p> <p>24 you took a belief; that's the problem</p> <p>25 with that question.</p>	<p style="text-align: right;">337</p> <p>1 LOVE</p> <p>2 reporter read the question again,</p> <p>3 that's fine.</p> <p>4 Mr. Love, unless you have</p> <p>5 anything else to add to your prior</p> <p>6 answer I would instruct you to simply</p> <p>7 refer to your prior answer and that's</p> <p>8 it.</p> <p>9 MR. BUTLER: Karen, I have to</p> <p>10 object to you instructing him how to</p> <p>11 answer the question.</p> <p>12 MS. DYER: Well, I'm going to</p> <p>13 instruct him in a moment not to answer</p> <p>14 at all.</p> <p>15 MR. BUTLER: I would rather that</p> <p>16 you do instruct him not to answer at</p> <p>17 all rather than instruct him what</p> <p>18 answer to give.</p> <p>19 MS. DYER: I'm going to have you</p> <p>20 now have the court reporter read the</p> <p>21 question back and see if Mr. Love has</p> <p>22 anything else to add to it and then</p> <p>23 I'll instruct appropriately, depending</p> <p>24 on what he says.</p> <p>25 MR. BUTLER: Let's all be quiet</p>

85 (Pages 334 to 337)

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1 LOVE
2 and let the court reporter read the
3 question.
4 [The requested portion of the
5 record was read.]
6 MS. DYER: I'm going to object
7 to the form of the question and,
8 Mr. Love, unless you have anything
9 else to add --
10 MR. BUTLER: Just a second. I
11 think there might have been a problem
12 when I asked the question I said if I
13 believe that, so let me ask the
14 question again, maybe it was
15 mistranscribed.
16 Q. My question sir, is as an expert
17 on U.S. GAAP if I believed that it was
18 only necessary to be viewed as a
19 commercial transaction that came about
20 between independent and unassociated
21 parties under normal economic
22 circumstances, instead of actually being
23 such a transaction, I would be misinformed
24 about U.S. GAAP as set forth in FAS 68?
25 MS. DYER: Objection to the

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1 LOVE
2 question. Asked and answered.
3 Unless you have something new to
4 add to your prior response I would
5 instruct you not to answer.
6 A. In your answer [sic] you said if
7 you were misinformed. How would I know
8 that you were misinformed and not properly
9 informed and decided or did believe
10 something else?
11 Do you understand why I have a
12 problem with that aspect of it?
13 Q. I believe that your problem is
14 an artificial one, but let me see if I can
15 cure that.
16 I'm really asking about your
17 understanding of FAS 68. Let me ask the
18 question this way: Is it your
19 understanding of FAS 68 that it's not
20 sufficient to merely be viewed as a
21 commercial transaction that came about
22 between independent and unassociated
23 parties under normal economic circum-
24 stances, but it actually has to be a
25 commercial transaction that came about

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1 LOVE
2 between independent and unassociated
3 parties under normal economic
4 circumstances?
5 MS. DYER: Objection asked and
6 answered, but you can answer again.
7 A. Could you --
8 Q. Let me try the question a
9 different way, because you're focusing on
10 "misinformed," if I understand you
11 correctly.
12 A. Well, that's part of the
13 problem. The second part of the problem
14 is I've seen nothing in the record that
15 leads me to believe that anyone has been
16 misinformed.
17 Q. But I'm not asking you about the
18 records, I'm asking you go GAAP and your
19 understanding of U.S. GAAP?
20 A. No, you're not asking me about
21 GAAP, you're asking me about someone's
22 misinformed if they believe something or
23 not. GAAP is here. Okay? This is GAAP.
24 GAAP doesn't say -- there's
25 nothing in GAAP that tells me that I can

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1 LOVE
2 say that you've been misinformed about
3 anything when you've got the GAAP.
4 Q. Let me take "misinformed" out
5 of the question for you, sir. Here's my
6 question.
7 If someone believed that it was
8 only necessary to be viewed as a
9 commercial transaction that came about
10 between independent and unassociated
11 parties under normal economic
12 circumstances, as opposed to actually
13 being such a transaction, would they be
14 wrong?
15 A. Yes.
16 MS. DYER: Objection to form.
17 Q. Thank you.
18 I think the next passage that
19 you quote as evidence that Mr. Faict
20 understood these provisions is on page 54,
21 some testimony from Mr. Janssens.
22 Can you tell me, sir, whether
23 that testimony that's excerpted on page 54
24 has to do with what you think is the
25 bank's general knowledge or what you think

86 (Pages 338 to 341)

<p style="text-align: right;">342</p> <p>1 LOVE</p> <p>2 is Mr. Faict's particular knowledge?</p> <p>3 A. Well, this is Mr. Janssens'</p> <p>4 knowledge, Janssen, Janssen, and clearly</p> <p>5 it's what he knew; but it's also, as I</p> <p>6 said before, he's one of the people that</p> <p>7 are involved in this lending relationship;</p> <p>8 and the question is, and is it also true</p> <p>9 that the Brussels Translation Group</p> <p>10 transaction was similar to the Dictation</p> <p>11 transaction in that there were limitations</p> <p>12 placed on Lernout and Hauspie's role in</p> <p>13 any financing, so that Lernout and Hauspie</p> <p>14 could recognize revenue on its dealings</p> <p>15 with the Brussels Translation Group? Yes,</p> <p>16 that's why -- that is why, that's right,</p> <p>17 there was a similarity.</p> <p>18 Is it true that the bank was</p> <p>19 informed -- the bank was informed that</p> <p>20 Lernout and Hauspie could not be liable</p> <p>21 directly or indirectly or by means of a</p> <p>22 guarantee with respect to the repayment of</p> <p>23 the financing of the BTG loan? Yes, that</p> <p>24 is correct.</p> <p>25 That shows an understanding of</p>	<p style="text-align: right;">344</p> <p>1 LOVE</p> <p>2 A. Excuse me. The question you</p> <p>3 asked was that I said that this was</p> <p>4 Mr. Faict's knowledge? When I've told you</p> <p>5 before unless that we went through the</p> <p>6 individual ones for Mr. Faict and I said</p> <p>7 the remainder of these are the bank, so</p> <p>8 what are you asking me?</p> <p>9 Q. Sir, I'm just confirming, we're</p> <p>10 trying to go through these one by one.</p> <p>11 A. Yes.</p> <p>12 Q. An exorcize that I thought would</p> <p>13 take about ten minutes. I'm just trying</p> <p>14 to find out which of these are specific to</p> <p>15 Mr. Faict and which ones aren't.</p> <p>16 So is it your testimony that</p> <p>17 this is one of the ones not specific to</p> <p>18 Mr. Faict?</p> <p>19 A. You said it runs from 62 to 63?</p> <p>20 Q. Correct.</p> <p>21 MS. DYER: Bottom of 62.</p> <p>22 A. That's to the bank.</p> <p>23 Q. Okay. That's progress.</p> <p>24 A. That's because you asked a</p> <p>25 specific question.</p>
<p style="text-align: right;">343</p> <p>1 LOVE</p> <p>2 the party relationships of the people. It</p> <p>3 shows an understanding of the fact that if</p> <p>4 the guarantee came from a significant</p> <p>5 related party to the enterprise that you</p> <p>6 could not -- the bank, the -- the lender,</p> <p>7 the borrower, rather, Lernout & Hauspie,</p> <p>8 could not recognize it as revenue.</p> <p>9 Q. Sir, my question was simply does</p> <p>10 this relate to Mr. Faict's knowledge or</p> <p>11 does this relate to more general knowledge</p> <p>12 within the bank?</p> <p>13 A. Well, it relates -- as I said,</p> <p>14 it relates to Mr. Janssens' knowledge and</p> <p>15 he was a part of the group that was the</p> <p>16 lending group for this particular</p> <p>17 relationship.</p> <p>18 Q. The next document that you cite</p> <p>19 as evidence of Mr. Faict's knowledge is on</p> <p>20 -- begins on page 62 and carries over to</p> <p>21 page 63.</p> <p>22 My question, sir, is does this</p> <p>23 document that you quoted in your answer</p> <p>24 refer to Mr. Faict's knowledge or someone</p> <p>25 else's supposed knowledge about U.S. GAAP?</p>	<p style="text-align: right;">345</p> <p>1 LOVE</p> <p>2 Q. Thank you, sir.</p> <p>3 The last document that you gave</p> <p>4 as part of your answer about Mr. Faict is</p> <p>5 the excerpt that's quoted on page 85, and</p> <p>6 my question sir is the same one, is this a</p> <p>7 document that's specific to Mr. Faict or</p> <p>8 is this something else?</p> <p>9 MS. DYER: Objection to form.</p> <p>10 A. The document that's -- what</p> <p>11 document on 65 is this?</p> <p>12 MS. DYER: I think it was 85.</p> <p>13 Is that what you asked about,</p> <p>14 Mr. Butler?</p> <p>15 MR. BUTLER: That's correct.</p> <p>16 MS. DYER: Page 85.</p> <p>17 THE WITNESS: 85? I'm sorry.</p> <p>18 A. I'd have to see the document</p> <p>19 to see that it related specifically to</p> <p>20 Mr. Faict. The way it's here though, it</p> <p>21 would be the bank in general, without my</p> <p>22 seeing that to see if he was copied on it,</p> <p>23 in the same way I discussed the others.</p> <p>24 Q. So returning to Love Exhibit 6,</p> <p>25 sir, which is the document that looks like</p>

87 (Pages 342 to 345)

<p style="text-align: right;">346</p> <p>1 LOVE</p> <p>2 it was faxed to Patrick Faict back in</p> <p>3 1996, in your opinion would reading this</p> <p>4 document allow a person with no accounting</p> <p>5 training and no experience as an</p> <p>6 accountant to apply U.S. GAAP correctly to</p> <p>7 specific transactions?</p> <p>8 MS. DYER: Objection to form.</p> <p>9 A. It's a very general question,</p> <p>10 and you said applying U.S. GAAP. Let me</p> <p>11 get that question again because --</p> <p>12 Q. Let me clarify the question, if</p> <p>13 I understand your concern.</p> <p>14 In your opinion would reading</p> <p>15 this document allow a person with no</p> <p>16 accounting training, no experience as an</p> <p>17 accountant, to apply these provisions of</p> <p>18 U.S. GAAP to a specific transaction?</p> <p>19 MS. DYER: Objection to form.</p> <p>20 A. It would depend upon the -- I</p> <p>21 guess the mental ability of the person</p> <p>22 who's reading them. I know a lot of</p> <p>23 lawyers that could read this -- and I</p> <p>24 hate to say it, but lawyers are generally</p> <p>25 knowledgeable professionals who could then</p>	<p style="text-align: right;">348</p> <p>1 LOVE</p> <p>2 MR. BUTLER: They are the same</p> <p>3 document, we've already established</p> <p>4 that.</p> <p>5 MS. DYER: Right.</p> <p>6 Q. Apart from this fax, are you</p> <p>7 aware of any other faxes from L&H's CFO?</p> <p>8 MS. DYER: And I object to the</p> <p>9 form of the question.</p> <p>10 A. Again, you know, there's a lot</p> <p>11 of documents in this case and I'm just</p> <p>12 trying to go over what we had seen and who</p> <p>13 transmitted information to the bank, and</p> <p>14 even if the -- I know the KPMG Belgium</p> <p>15 transmitted directly, wrote a letter</p> <p>16 directly to the bank. I'm not certain of</p> <p>17 Brown Rudnick, whether that was forwarded</p> <p>18 to the bank by the CFO.</p> <p>19 So no, as I sit here now I'm not</p> <p>20 that certain whether or not there are</p> <p>21 others. There may be other facts --</p> <p>22 factors where the accounting was</p> <p>23 described, but I can't identify them as I</p> <p>24 sit here today.</p> <p>25 MR. BUTLER: Let's mark this.</p>
<p style="text-align: right;">347</p> <p>1 LOVE</p> <p>2 apply what's in here to a specific</p> <p>3 transaction -- so it would depend upon the</p> <p>4 level of knowledge of the person reading</p> <p>5 it.</p> <p>6 I know a lot of businessmen who</p> <p>7 could do the same thing, they're familiar</p> <p>8 with business, have no formal accounting</p> <p>9 training, can read these standards and</p> <p>10 apply them to a specific transaction.</p> <p>11 Q. Do you know whether Mr. Faict</p> <p>12 falls into either of the categories that</p> <p>13 you've just described?</p> <p>14 A. No.</p> <p>15 Q. At the top of page 17 of your</p> <p>16 report in the first line of the first full</p> <p>17 paragraph you refer to faxes from L&H's</p> <p>18 CFO; do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Apart from this document, Love</p> <p>21 Exhibit 6, are you aware of any other</p> <p>22 faxes from L&H' CFO?</p> <p>23 MS. DYER: When you say Exhibit</p> <p>24 6, are you referring to it in both the</p> <p>25 form six and seven?</p>	<p style="text-align: right;">349</p> <p>1 LOVE</p> <p>2 (Whereupon, the above-mentioned</p> <p>3 multi-page document was marked Love</p> <p>4 Exhibit 8 for identification.)</p> <p>5 Q. Sir, before we get to this</p> <p>6 document I want to refer you back to page</p> <p>7 17 of your report, and at the top of that</p> <p>8 page you refer to faxes, you refer to the</p> <p>9 bank being expressly informed about U.S.</p> <p>10 GAAP, and you say in faxes from L&H's CFO,</p> <p>11 letters from L&H's auditors, KPMG Belgium,</p> <p>12 and L&H's outside counsel, Brown Rudnick</p> <p>13 Freed & Gesmer; do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. I've marked as Exhibit 8 a</p> <p>16 document which -- well, bearing Bates</p> <p>17 numbers DBB128966, and also Love 1064,</p> <p>18 which indicates that this is a translation</p> <p>19 of a document, and the original document</p> <p>20 is right behind it in case it's helpful to</p> <p>21 reference it.</p> <p>22 Is this one of the documents</p> <p>23 that you're referring to in that paragraph</p> <p>24 on page 17?</p> <p>25 A. Not exactly, because I think I</p>

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<p style="text-align: right;">350</p> <p>1 LOVE</p> <p>2 have with me another document here that</p> <p>3 isn't marked "draft" with a different</p> <p>4 Bates number for the translation, okay?</p> <p>5 With a different Bates number. This is</p> <p>6 marked "draft" but --</p> <p>7 Q. Sir, let me just refer you to</p> <p>8 your report. You cite this document in</p> <p>9 Footnote 29 of your report; do you not?</p> <p>10 A. Yes.</p> <p>11 Q. So is this one the documents</p> <p>12 that you're referring to in that paragraph</p> <p>13 on page 17?</p> <p>14 MS. DYER: Well, you're talking</p> <p>15 about when you say "this one," you're</p> <p>16 talking about DBB128966 through 68 and</p> <p>17 the translation that was provided by</p> <p>18 Plaintiff's counsel as opposed to LOVE</p> <p>19 001064?</p> <p>20 MR. BUTLER: I'm sorry, I don't</p> <p>21 understand your question. LOVE1064</p> <p>22 I'll represent to you is the</p> <p>23 translation provided to us by you.</p> <p>24 MS. DYER: Right, by Plaintiff's</p> <p>25 counsel.</p>	<p style="text-align: right;">352</p> <p>1 LOVE</p> <p>2 translation that we were given by your</p> <p>3 counsel that I was told you used.</p> <p>4 A. Yes.</p> <p>5 Q. Is there another translation</p> <p>6 that you used of this document?</p> <p>7 A. No. What I said to you is that</p> <p>8 I wanted one without "draft" on it. I</p> <p>9 wanted my people to find it. I had a lot</p> <p>10 of documents to search to find it.</p> <p>11 When I did the report this is</p> <p>12 the one I had. This is the one I got</p> <p>13 subsequent to that period of time that</p> <p>14 doesn't have "draft," it has a different</p> <p>15 Bates number on it, I think.</p> <p>16 What is the Bates number on that</p> <p>17 one?</p> <p>18 Q. 128966 to 98.</p> <p>19 A. It's the same Bates number but</p> <p>20 that one doesn't have "draft" on it. This</p> <p>21 one has "draft," so I don't understand it.</p> <p>22 Let me see that again, please.</p> <p>23 Q. Yup.</p> <p>24 Well, if you look at the</p> <p>25 original Dutch language document there's</p>
<p style="text-align: right;">351</p> <p>1 LOVE</p> <p>2 MR. BUTLER: That I understand</p> <p>3 is the one that Mr. Love used for the</p> <p>4 purposes of preparing his report.</p> <p>5 A. At the time I prepared the</p> <p>6 report, yes, you're right and then I asked</p> <p>7 for one -- I said can we search and find</p> <p>8 one that is a final, because I don't like</p> <p>9 working with the draft, and they searched</p> <p>10 the database and they came up with what</p> <p>11 appears to be, I don't know if it's final</p> <p>12 but it's not marked draft, but just a</p> <p>13 quick view of it it appears to be, as I</p> <p>14 sit here and not doing a word-for-word</p> <p>15 review, it seems to be the same.</p> <p>16 MS. DYER: And how about for the</p> <p>17 sake of clarity and expediency you use</p> <p>18 what Mr. Butler provided to you,</p> <p>19 unless you think there is some issue</p> <p>20 you need to reference back; is that</p> <p>21 all right with you? You want him to</p> <p>22 use the one that you placed before</p> <p>23 him?</p> <p>24 Q. Yes, the document that you</p> <p>25 referred to in your report and a</p>	<p style="text-align: right;">353</p> <p>1 LOVE</p> <p>2 nothing on either version that says</p> <p>3 "draft"; do you see that?</p> <p>4 A. Right, yes, yes, yes.</p> <p>5 Q. So does the draft just refer to</p> <p>6 the translation?</p> <p>7 A. Yes.</p> <p>8 Q. And is it your understanding</p> <p>9 that the exhibit that I've shown you</p> <p>10 contains only a draft translation and not</p> <p>11 a final translation?</p> <p>12 A. Well, it says "draft" on it, but</p> <p>13 the one that I have doesn't, and there may</p> <p>14 be a copy of it when they were agreed with</p> <p>15 it and they kept the same Bates number on</p> <p>16 it because --</p> <p>17 Q. Okay, sir, well since we appear</p> <p>18 to have two different translations --</p> <p>19 MS. DYER: No, I think they're</p> <p>20 identical.</p> <p>21 A. Okay. I understand what</p> <p>22 happened. I think they are identical. I</p> <p>23 think I understand what happened. When I</p> <p>24 say the same Bates number and I was</p> <p>25 concerned with the draft and the</p>

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<p style="text-align: right;">354</p> <p>1 LOVE</p> <p>2 non-draft, the Bates number that they have</p> <p>3 on the translation is really the Bates</p> <p>4 number from the underlying document,</p> <p>5 that's why they could have the same Bates</p> <p>6 number on both and have "draft" on one and</p> <p>7 not on the other, and I looked at them</p> <p>8 very quickly and they seemed to me to be</p> <p>9 the same, except that I kept saying</p> <p>10 there's gotta be a final, let's find a</p> <p>11 final somewhere, and after the report went</p> <p>12 out we found one without a "draft" stamp</p> <p>13 on it.</p> <p>14 Q. Okay, sir, going back to my</p> <p>15 question then. Let's just use Love</p> <p>16 Exhibit 8, if you think it's identical to</p> <p>17 the other one, and we'll ignore the draft.</p> <p>18 A. It makes it easier, yes.</p> <p>19 Q. So is this Exhibit 8 the</p> <p>20 document that you are referring to on page</p> <p>21 17 as a letter from L&H's auditors, KPMG</p> <p>22 Belgium?</p> <p>23 A. Page 17?</p> <p>24 Q. Right.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">356</p> <p>1 LOVE</p> <p>2 document, do you have any knowledge of why</p> <p>3 this document was sent to Paribas and</p> <p>4 Bacob?</p> <p>5 A. No personal knowledge.</p> <p>6 Q. Do you know who at Paribas Bank</p> <p>7 received this document?</p> <p>8 A. No.</p> <p>9 Q. Do you know at Bacob Bank</p> <p>10 received this document?</p> <p>11 A. No.</p> <p>12 The only thing, just the -- the</p> <p>13 only thing is it appears that it comes</p> <p>14 from the bank document production.</p> <p>15 Q. So it appears that somebody at</p> <p>16 each of these banks received it from the</p> <p>17 document in the fact that we have it</p> <p>18 somewhere, but you don't know who</p> <p>19 specifically would have looked at this?</p> <p>20 A. No, no, I don't know if it was</p> <p>21 received by one or the other, both; but I</p> <p>22 do know that the Bates stamp -- or I guess</p> <p>23 you can't call them Bates stamp anymore --</p> <p>24 but the numbering sequence is the number</p> <p>25 sequence for the Dexia files, so Dexia</p>
<p style="text-align: right;">355</p> <p>1 LOVE</p> <p>2 Q. You used the plural "letters"</p> <p>3 in your report. Are you aware of any</p> <p>4 other letters from L&H's auditors, KPMG</p> <p>5 Belgium, to the bank that describe U.S.</p> <p>6 GAAP?</p> <p>7 A. I used the word "letters"</p> <p>8 because there were two, one from KPMG and</p> <p>9 one from Brown Rudnick.</p> <p>10 Q. But here you're saying -- I see.</p> <p>11 So when you are using the plural you are</p> <p>12 just referring to one letter from L&H's</p> <p>13 auditors, KPMG, and one letter from Brown</p> <p>14 Rudnick.</p> <p>15 A. Yes.</p> <p>16 Q. Is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Why was this document sent to</p> <p>19 Paribas and Bacob?</p> <p>20 MS. DYER: Objection to form.</p> <p>21 A. It says "at your request," so</p> <p>22 I'm assuming if the writer of the letter</p> <p>23 is right it was requested by Paribas Bank</p> <p>24 and Bacob Bank, Bacob.</p> <p>25 Q. Apart from what you read in this</p>	<p style="text-align: right;">357</p> <p>1 LOVE</p> <p>2 somewhere had a copy of this.</p> <p>3 MR. BUTLER: Let's mark this.</p> <p>4 (Whereupon, the above-mentioned</p> <p>5 two-page document was marked Love</p> <p>6 Exhibit 9 for identification.)</p> <p>7 Q. I've marked as Love Exhibit 9 a</p> <p>8 document bearing Bates numbers DBB5217 to</p> <p>9 5218. Have you seen this document before,</p> <p>10 sir?</p> <p>11 A. Yes.</p> <p>12 Q. Is this the letter from Brown</p> <p>13 Rudnick that's referred to on page 17 of</p> <p>14 your report?</p> <p>15 A. Yes.</p> <p>16 Q. This appears to be a memo dated</p> <p>17 June 5, 1997 from someone named Phillip</p> <p>18 Flink, who was Phillip Flink?</p> <p>19 A. He was a partner at Brown</p> <p>20 Rudnick.</p> <p>21 Q. Do you know Mr. Flink?</p> <p>22 A. No.</p> <p>23 Q. Do you know -- do you recognize</p> <p>24 him as an expert on accounting issues?</p> <p>25 A. I don't know whether or not he's</p>

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<p style="text-align: right;">358</p> <p>1 LOVE</p> <p>2 an expert on accounting issues.</p> <p>3 Q. I think you've indicated Brown</p> <p>4 Rudnick is a law firm, it's not an</p> <p>5 accounting firm; correct?</p> <p>6 A. That's correct.</p> <p>7 Q. Do you think it would be</p> <p>8 reasonable for someone to look to Brown</p> <p>9 Rudnick for accounting advice?</p> <p>10 MS. DYER: Objection to form.</p> <p>11 A. I have to read the entire</p> <p>12 letter.</p> <p>13 Q. Take as much time as you need,</p> <p>14 sir.</p> <p>15 (Witness peruses document.)</p> <p>16 A. Well, they give advice on</p> <p>17 structuring of a transaction. I don't</p> <p>18 know whether Mr. Fink -- Flink is a CPA or</p> <p>19 has a background in accounting, but it is</p> <p>20 the structuring of a transaction and he's</p> <p>21 saying that these, I see at the last</p> <p>22 sentence, "some of the more important</p> <p>23 issues that have been brought to our</p> <p>24 attention by KPMG in the course of</p> <p>25 structuring this transaction."</p>	<p style="text-align: right;">360</p> <p>1 LOVE</p> <p>2 with that, and someone asked for it, but</p> <p>3 it went to them.</p> <p>4 Q. Is it your testimony, sir, that</p> <p>5 you know that someone at the bank asked</p> <p>6 for this document?</p> <p>7 A. That's not my testimony.</p> <p>8 Someone asked them to send it to the bank,</p> <p>9 either to the bank or someone at Lernout &</p> <p>10 Hauspie I would assume.</p> <p>11 Q. I was going to ask, do you know</p> <p>12 why this document was sent to Paribas and</p> <p>13 Bacob?</p> <p>14 A. I don't know precisely when it</p> <p>15 was sent. It was sent about the same time</p> <p>16 as the KPMG letter, and maybe this is --</p> <p>17 well, maybe is speculation so I don't</p> <p>18 know. I don't know why it was sent.</p> <p>19 Q. Do you know who at Paribas</p> <p>20 received this document?</p> <p>21 A. No.</p> <p>22 Q. Do you know who at Bacob Bank</p> <p>23 received this document?</p> <p>24 A. No.</p> <p>25 Q. This document is written in</p>
<p style="text-align: right;">359</p> <p>1 LOVE</p> <p>2 So it's their understanding of</p> <p>3 what KPMG has brought to their attention,</p> <p>4 and I don't know how they brought it to</p> <p>5 their attention.</p> <p>6 MR. BUTLER: Could you read my</p> <p>7 question again.</p> <p>8 MS. DYER: Objection to form.</p> <p>9 [The requested portion of the</p> <p>10 record was read.]</p> <p>11 Q. Sir, I'll ask the question</p> <p>12 again.</p> <p>13 Do you think it to be reasonable</p> <p>14 for someone to look to Brown Rudnick a law</p> <p>15 firm for accounting advice?</p> <p>16 MS. DYER: I'm going to object</p> <p>17 to form and also asked and answered.</p> <p>18 A. And I would say that they're</p> <p>19 looking to Brown Rudnick for the structure</p> <p>20 of a transaction, which people normally do</p> <p>21 with their attorneys.</p> <p>22 Brown Rudnick is saying that</p> <p>23 what they have here was brought to their</p> <p>24 attention by KPMG as far as the accounting</p> <p>25 is concerned. So there's nothing wrong</p>	<p style="text-align: right;">361</p> <p>1 LOVE</p> <p>2 English. Do you know whether the people</p> <p>3 who received this document at Paribas or</p> <p>4 Bacob spoke and understood English well</p> <p>5 enough to understand this document?</p> <p>6 MS. DYER: Objection to form.</p> <p>7 A. The people at the bank, that</p> <p>8 there are no people in the bank that</p> <p>9 understood English well enough? I don't</p> <p>10 understand. Are you saying anyone in the</p> <p>11 bank who could have read it and translated</p> <p>12 it?</p> <p>13 Q. My question, sir, is do you know</p> <p>14 whether, whoever reviewed this in the</p> <p>15 bank, do you have any knowledge of whether</p> <p>16 those particular people understood English</p> <p>17 well enough to understand this document?</p> <p>18 A. Well, you asked me the question</p> <p>19 did I know who it went to and I said no.</p> <p>20 MS. DYER: Same objection.</p> <p>21 A. I can't -- if I don't know the</p> <p>22 people who it went to I don't know whether</p> <p>23 they could speak English or not.</p> <p>24 Q. So the answer is no; right?</p> <p>25 A. But it's in their files. It's</p>

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1 LOVE
 2 in the bank's files, that's simple, but
 3 I don't know because I don't know the
 4 people.
 5 Q. So the answer is no; right?
 6 A. Yes.
 7 MS. DYER: We're past the seven
 8 hours, aren't we?
 9 THE VIDEOGRAPHER: Yes, we are.
 10 MS. DYER: We're past the seven
 11 hours.
 12 MR. BUTLER: Well, I would like
 13 to, for clarity of the record, if we
 14 have a possibility to resume, could I
 15 just take two minutes to mark this
 16 document and ask him if it's the same
 17 one that we did previously.
 18 MS. DYER: You can do that, I
 19 mean, obviously I object to any notion
 20 that there will be any resumption of
 21 this deposition. We've gone the full
 22 seven hours, but if it's just that
 23 question, certainly.
 24 MR. BUTLER: I understand. So
 25 let me just mark this quickly then.

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1 LOVE
 2 (Whereupon, the above-mentioned
 3 two-page document was marked Love
 4 Exhibit 10 for identification.)
 5 Q. My question, sir, is just
 6 quickly, do you agree that this is a
 7 slightly different version of the same
 8 document we were looking at before that
 9 was sent from Brown Rudnick to Lernout &
 10 Hauspie Speech Products?
 11 MS. DYER: And with the
 12 different date.
 13 A. It's more than the date.
 14 This is going to Lernout &
 15 Hauspie well before the one that goes out
 16 to the bank, and it says "As we have
 17 discussed," and it says "In order to meet
 18 these tests, we've been advised by KPMG,
 19 L&H's accountants, that the transaction
 20 must at a minimum have the following
 21 characteristics," and the other one, the
 22 one that goes to the bank, it says "In
 23 order to meet these tests the transaction
 24 must at a minimum have the following
 25 characteristics."

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1 LOVE
 2 Q. Sir, is this, let me just ask
 3 this, is this one of the documents that
 4 you cite in Footnote 29 of your report?
 5 A. Yes, that's correct.
 6 Q. Do you have any reason to
 7 believe that this document, the one that
 8 went to Lernout & Hauspie, was given to
 9 anyone at Paribas or Bacob?
 10 MS. DYER: Objection to form.
 11 A. It was in their files. It's
 12 from their discovery, discovery of Dexia
 13 Bank. So if you look at the Bates number
 14 on it, that's where it came from, so I
 15 assume that they had it, they gave it to
 16 us, they got it.
 17 Q. Apart from the Bates number, do
 18 you have any independent understanding or
 19 knowledge of whether this document was
 20 sent to Paribas or Bacob?
 21 MS. DYER: Objection to form.
 22 A. I don't, you know, on any
 23 document that we may receive -- now we're
 24 talking about, I'm sorry, let me get the
 25 right one in front of me. The Lernout &

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1 LOVE
 2 Hauspie one?
 3 Q. Correct.
 4 A. It's not addressed to them but
 5 it's in their file so some way they got
 6 ahold of it. I don't know, there is
 7 nothing else on here that says this is
 8 going to them, but they did have it in
 9 their files, which means they had it.
 10 Q. Do you know were they had it in
 11 November 1996?
 12 A. No, I wouldn't know that because
 13 there is no transmittal date, except for
 14 the fact that it's on -- in their files,
 15 um --
 16 MS. DYER: Did you have
 17 something to add, Mr. Love?
 18 THE WITNESS: No, I'm just
 19 looking at it.
 20 MR. BUTLER: Well, Karen I
 21 understand I've used up a little over
 22 seven hours today, and it's your
 23 position that you're cutting off the
 24 deposition after seven hours; is that
 25 correct?

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<div> <div>366</div> <div> <div>1 LOVE</div> <div>2 MS. DYER: I think the local</div> <div>3 rules and the Federal Rules, if not</div> <div>4 the local rules, actually take that</div> <div>5 position. So it's not my position,</div> <div>6 it's the position of the rules of</div> <div>7 civil procedure but --</div> <div>8 MR. BUTLER: We have the power,</div> <div>9 as parties, to stipulate to a lenthier</div> <div>10 deposition. Do I understand you</div> <div>11 correctly, you are not willing to</div> <div>12 stipulate to more time?</div> <div>13 MS. DYER: We are not willing to</div> <div>14 stipulate to something outside of the</div> <div>15 Federal Rules of the seven hours.</div> <div>16 MR. BUTLER: Do we need to have</div> <div>17 any further meeting to confer on that</div> <div>18 before I raise the issue with the</div> <div>19 Court?</div> <div>20 MS. DYER: Beyond the time that</div> <div>21 I've already allotted, which is</div> <div>22 additional, if you would either call</div> <div>23 me or put it in a letter, I'd like to</div> <div>24 know the bases for your request for</div> <div>25 additional time.</div> </div> </div>	<div> <div>368</div> <div> <div>1</div> <div>2 CERTIFICATION</div> <div>3</div> <div>4</div> <div>5 I, KATHLEEN PIAZZA LUONGO, a Notary Public</div> <div>6 for and within the State of New York, do</div> <div>7 hereby certify that the foregoing witness,</div> <div>8 VINCENT J. LOVE, was duly sworn on the date</div> <div>9 indicated, and that the foregoing is a</div> <div>10 true and accurate transcription of my</div> <div>11 stenographic notes.</div> <div>12 I further certify that I am not</div> <div>13 employed by nor related to any party to</div> <div>14 this action.</div> <div>15</div> <div>16</div> <div>17</div> <div>18 KATHLEEN PIAZZA LUONGO</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> </div>
<div> <div>367</div> <div> <div>1 LOVE</div> <div>2 MR. BUTLER: Well, simply that</div> <div>3 I'm not finished.</div> <div>4 MS. DYER: Well, if that's the</div> <div>5 only reason, then no, we're not</div> <div>6 prepared to stipulate to that.</div> <div>7 MR. BUTLER: Thank you.</div> <div>8 THE VIDEOGRAPHER: Okay. The</div> <div>9 deposition is concluded for today.</div> <div>10 The time is 6:28. We're off the</div> <div>11 record.</div> <div>12</div> <div>13 _____</div> <div>14 VINCENT J. LOVE</div> <div>15 Subscribed and sworn to</div> <div>16 before me this _____,</div> <div>17 day of _____,</div> <div>18 2007.</div> <div>19 _____</div> <div>20 Notary Public</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> </div>	<div> <div>369</div> <div> <div>1</div> <div>2 INDEX</div> <div>3</div> <div>4 WITNESS</div> <div>5 Vincent J. Love</div> <div>6</div> <div>7 EXAMINATION BY PAGE</div> <div>8 Mr. Butler 5-367</div> <div>9</div> <div>10 EXHIBITS</div> <div>11</div> <div>12</div> <div>13 LOVE DESCRIPTION PAGE</div> <div>14 1 Preliminary Expert 26</div> <div>15 Witness Report of</div> <div>16 Vincent J. Love</div> <div>17 dated January 4, 2007</div> <div>18 2 Letter dated 2/11/07 28</div> <div>19 with attached</div> <div>20 Amended Exhibit 3</div> <div>21 to Preliminary Expert</div> <div>22 Witness Report of</div> <div>23 Vincent J. Love</div> <div>24 3 Expert Witness 31</div> <div>25 Preliminary Rebuttal</div> <div>Report of Vincent J.</div> <div>Love dated 2/16/07</div> <div>23 4 Document bearing 65</div> <div>24 Bates number</div> <div>25 FV001735</div> </div> </div>

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<div style="text-align: right; margin-bottom: 10px;">370</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>1 (Cont'd.)</p> <p>2 LOVE</p> <p>3 DESCRIPTION</p> <p>4 PAGE</p> <p>5 Document bearing 97</p> <p>6 Bates LHSP022159</p> <p>7 Document bearing 153</p> <p>8 Bates numbers</p> <p>9 DBB6796 - 6801</p> <p>10 Document bearing 155</p> <p>11 Bates numbers</p> <p>12 DBB74968 - 4973</p> <p>13 Document bearing 349</p> <p>14 Bates numbers</p> <p>15 DBB128966</p> <p>16 Document bearing 357</p> <p>17 Bates numbers</p> <p>18 DBB5217 - 5218</p> <p>19 Document bearing 363</p> <p>20 Bates numbers</p> <p>21 DBB007192 - 7193</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> <div style="width: 55%;"> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> </div>	<div style="text-align: right; margin-bottom: 10px;">372</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>1 ERRATA SHEET</p> <p>2 VERITEXT/SPHERION DEPOSITION SERVICES</p> <p>3 1-800-362-2520</p> <p>4 1350 BROADWAY</p> <p>5 NEW YORK, NY 10018</p> <p>6 NAME OF CASE: STONINGTON VS. DEXIA S.A.</p> <p>7 DATE OF DEPOSITION: MARCH 20, 2007</p> <p>8 NAME OF DEPONENT: VINCENT J. LOVE</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> <div style="width: 55%;"> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> </div>
<div style="text-align: right; margin-bottom: 10px;">371</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>1 LITIGATION SUPPORT INDEX</p> <p>2</p> <p>3 DIRECTION TO WITNESS NOT TO ANSWER</p> <p>4</p> <p>5 Page Line Page Line</p> <p>6 (NONE)</p> <p>7</p> <p>8 REQUEST FOR PRODUCTION OF DOCUMENTS</p> <p>9</p> <p>10 Page Line Page Line</p> <p>11 (NONE)</p> <p>12</p> <p>13 INFORMATION TO BE FURNISHED</p> <p>14</p> <p>15 Page Line Page Line</p> <p>16 (NONE)</p> <p>17</p> <p>18 QUESTIONS MARKED FOR A RULING</p> <p>19</p> <p>20 Page Line Page Line</p> <p>21 (NONE)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> <div style="width: 55%;"> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> </div>	<div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> <div style="width: 55%;"> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> </div>

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